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**Oceans and the law of the sea**

# Oceans and the law of the sea

## Report of the Secretary-General**

**Addendum**

*Summary*

The present report has been prepared as an addendum to the main annual report (A/58/65) in order to provide the General Assembly with an overview of developments relating to the implementation of the United Nations Convention on the Law of the Sea and the work of the Organization, its specialized agencies and other institutions in the field of ocean affairs and the law of the sea since the finalization of the main report in March 2003. The addendum should be read in conjunction with the main report, as well as the report on the work of the fourth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (A/58/95) and the report of the thirteenth Meeting of States Parties to the Convention (SPLOS/103). The addendum provides information on the status of the Convention and its implementing Agreements, and on declarations and statements made by States under articles 287 and 310 of the Convention. There are brief accounts of recent developments in the Commission on the Limits of the Continental Shelf, in the International Seabed Authority and on maritime claims. Furthermore, the report reviews developments relating to safety of navigation; crimes at sea; the conservation and management of living marine resources, including the outcome of the second informal consultations of States parties to the 1995 United Nations Fish Stocks Agreement; marine biodiversity and the protection and preservation of the marine environment. The sections on marine science and technology, settlement of disputes and capacity-building provide information on developments since 2002 as restrictions on length precluded their inclusion in the main report. Up-to-date information is provided on recent developments in the field of international cooperation and coordination, which remains one of the main challenges for the future.

* A/58/150.

** The present report was submitted after the established deadline in order to reflect the latest developments in ocean affairs and the law of the sea.

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## Abbreviations

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| ABE-LOS | IOC Advisory Body of Experts on the Law of the Sea |
| FAO | Food and Agriculture Organization of the United Nations |
| GEF | Global Environment Facility |
| GESAMP | Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection |
| GPA | Global Programme of Action for the Protection of the Marine Environment from Land-based Activities |
| IAEA | International Atomic Energy Agency |
| IMO | International Maritime Organization |
| IOC | Intergovernmental Oceanographic Commission (UNESCO) |
| IUU fishing | Illegal, unreported and unregulated fishing |
| MARPOL 73/78 | International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto |
| MEPC | IMO Marine Environment Protection Committee |
| MSC | IMO Maritime Safety Committee |
| NAV | IMO Subcommittee on Safety of Navigation |
| OECD | Organisation for Economic Cooperation and Development |
| SBSTTA | Subsidiary Body on Scientific, Technical and Technological Advice (Conference of the Parties to the Convention on Biological Diversity) |
| SOLAS | International Convention for the Safety of Life at Sea |
| SPREP | South Pacific Regional Environment Programme |
| TCC | IMO Technical Cooperation Committee |
| UNDP | United Nations Development Programme |
| UNEP | United Nations Environment Programme |
| UNESCO | United Nations Educational, Scientific and Cultural Organization |
| WHO | World Health Organization |
| WMO | World Meteorological Organization |

# I. Introduction

1. The scope and number of issues arising in the field of ocean affairs and the law of the sea have expanded rapidly over the past few years, presenting a formidable challenge to policy and decision makers. In particular, it has become increasingly difficult to keep abreast of all relevant developments and to coordinate activities within and among all relevant sectors. This proliferation of issues has fortunately fostered a deeper appreciation of the importance of the United Nations Convention on the Law of the Sea (UNCLOS) as the legal framework for addressing issues in a comprehensive and integrated manner, and an increased reliance on its principles as the foundation for addressing new challenges. At the same time, the international community has looked to the General Assembly to provide the intergovernmental mechanism for maintaining an overview of all developments relating to ocean affairs and the law of the sea; for identifying necessary linkages between various issues and for providing, as required, policy guidance through its annual resolutions on oceans and the law of the sea, in particular in relation to areas where international coordination and cooperation should be enhanced.

2. The task of the General Assembly is greatly facilitated by the work of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (the Consultative Process). In its resolution 57/141 of 12 December 2002, the Assembly renewed the mandate of the Consultative Process, which had been established in 1999 by resolution 54/33 in order to facilitate the Assembly's annual review, in an effective and constructive manner, of developments in ocean affairs by considering the report of the Secretary-General on oceans and the law of the sea. Accordingly, as in past years, the report on oceans and the law of the sea (A/58/65) was prepared in advance of the fourth meeting of the Consultative Process, held from 2 to 6 June 2003.

3. The present report has been prepared in the form of an addendum to the main report in order to provide the General Assembly with an update of the most significant developments that have occurred in the field of oceans and the law of the sea since the preparation of the main annual report in March 2003, and to provide information on developments that were not included in the main report because of page constraints. The attention of the General Assembly is also drawn to three other reports that should be read in conjunction with the main annual report and the current report, namely, the report on the work of the Consultative Process at its fourth meeting (A/58/95), the report of the thirteenth Meeting of States Parties (SPLOS/103), and the report of the Secretary-General on a regular process for the global reporting and assessment of the state of the marine environment: proposals for modalities (A/58/__).

4. The Assembly is further invited to consider another report, entitled "The status and implementation of the Agreement for the Implementation of the Provisions of the United Nations Convention for the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (the Fish Stocks Agreement) and its impact on related or proposed instruments throughout the United Nations system, with special reference to implementation of Part VII of the Fish Stocks Agreement, dealing with the requirements of developing States" (A/58/215), submitted to the General Assembly at the current session pursuant to General Assembly resolutions 56/13 and 57/143.

# II. The United Nations Convention on the Law of the Sea and its implementing Agreements

## A. Status of the Convention and its implementing Agreements

5. As at 31 July 2003, following the accession by Albania on 23 June, the number of States Parties to the United Nations Convention on the Law of the Sea (UNCLOS) has risen to 143, including the European Community. Pursuant to the provisions of the Agreement relating to the Implementation of Part XI, Albania, having acceded to UNCLOS, also expressed its consent to be bound by that Agreement. With the accessions by Mexico on 10 April 2003 and Honduras on 28 July 2003, the number of Parties to that Agreement has increased to 115. With regard to the status of the Fish Stocks Agreement, South Africa and India deposited their instruments of accession on 14 and 19 August 2003 respectively. The European Community announced that its member States had completed all internal procedures necessary to express their consent to be bound by the Agreement and that the deposit of the respective instruments by the European Community and its member States was imminent.

## B. Declarations and statements under articles 310 and 287 of UNCLOS

6. Upon its accession to UNCLOS in February 2003, Kiribati made a declaration in which it highlighted its concerns relating to the formula used for drawing archipelagic baselines and proposed that the formula be revisited in the future to take into consideration these concerns. Kiribati also stated that its accession did not in any way prejudice its status as an archipelagic State or its legal rights to declare all or part of its maritime territory as archipelagic waters under UNCLOS.

7. In April 2003, the United Kingdom of Great Britain and Northern Ireland made a declaration pursuant to article 298, paragraph 1, of UNCLOS, in which it stated that it "... does not accept any of the procedures provided for in section 2 of Part XV of the Convention with respect to the categories of disputes referred to in paragraph 1 (b) and (c) of article 298".

## C. Meeting of States Parties

8. The thirteenth Meeting of States Parties was held in New York from 9 to 13 June 2003 under the Presidency of Stanislaw Pawlak of Poland. The Meeting considered a number of financial and administrative issues relating to the International Tribunal for the Law of the Sea; received information on recent developments with regard to the work of the International Seabed Authority and the work of the Commission on the Limits of the Continental Shelf; and also discussed matters related to article 319 of UNCLOS.[1]

9. *Financial and administrative issues*. The Meeting approved the budget of the Tribunal for the year 2004 in the amount of US$ 8,039,000. It also approved $1,109,200 as case-related costs to be utilized only in the event cases are submitted to the Tribunal in 2003. Upon the proposal of one delegation, the Meeting reviewed the scale of assessment for States Parties for the budget of the Tribunal and decided

to progressively reduce its ceiling from the current rate of 25 to 24 per cent for the budget year 2004 and to 22 per cent for the budget period 2005-2006. The Meeting agreed that the decision would only apply to those budget years. The Meeting adopted the Financial Regulations of the Tribunal and decided that they would become effective on 1 January 2004 and would apply to the financial period 2005-2006 and to subsequent financial periods. Other decisions taken by the Meeting included the reimbursement of $2.3 million that had accrued in the staff assessment fund to States Parties on a pro rata basis and the provision of coverage for the Tribunal in the event of death, injury or illness of its members attributable to service with the Tribunal.

10. *Matters related to article 319 of UNCLOS.* During the thirteenth Meeting a number of delegations reiterated the views they had expressed at earlier Meetings in support of or against the inclusion of substantive matters on the agenda of the Meeting. Several delegations reaffirmed their opinion that the Meeting of States Parties should not be limited to discussing administrative and budgetary matters. Others expressed the view that there was no legal basis in UNCLOS for the Meeting to have such a role, and that issues relating to the implementation of the Convention were being dealt with in other forums, especially the General Assembly. A middle-ground position was supported by other delegations that agreed with the view that the Meeting of States Parties should not undertake a far-reaching review of UNCLOS, while acknowledging that the Meeting should not be excluded from examining substantive issues in the future. They cited the commencement of the 10-year period for making submissions to the Commission on the Limits of the Continental Shelf as a substantive issue which the Meeting had considered in the past. In the light of the various views expressed, the Meeting decided to retain the current item on matters related to article 319 of UNCLOS on the provisional agenda of the fourteenth Meeting.

11. A special Meeting of States Parties was convened at United Nations Headquarters on 2 September 2003. The purpose of the meeting was to elect a judge to fill the vacancy that occurred in the International Tribunal for the Law of the Sea as a result of the death of Judge Lennox Ballah of Trinidad and Tobago on 29 March 2003. Mr. Anthony Amos Lucky (Trinidad and Tobago), the only candidate nominated, received the required majority in accordance with article 4, paragraph 4, of the Statute of the Tribunal (annex VI to UNCLOS) and was elected with 92 votes at the first round of balloting. In accordance with article 6, paragraph 2, of the Statute, the term of office of Mr. Lucky will end on 30 September 2011.

# III. Maritime space

## A. The continental shelf beyond 200 nautical miles: the work of the Commission on the Limits of the Continental Shelf

12. *Work of the Commission on the Limits of the Continental Shelf.* The twelfth session of the Commission was held from 28 April to 2 May 2003. Since no submission from a coastal State had been received by 25 May 2003, in time to be considered at its next session, the Commission decided not to hold the session scheduled for 25 to 29 August 2003. The thirteenth session is now scheduled to be held from 26 to 30 April 2004, and the fourteenth session from 30 August to

3 September 2004. If a submission is received before either session in time to be considered at the following session, then in accordance with the Commission's rules of procedure, that session would be followed by two weeks of meetings of a subcommission.

13. At its twelfth session, the Commission took up a number of items to facilitate the process of dealing with submissions by coastal States, including a review of its procedural and organizational documents with a view to aligning their provisions. The Commission decided that provisions of an operational nature contained in the modus operandi of the Commission (CLCS/L.3) would be combined with the internal procedure of the subcommission (CLCS/L.12) into one document, with editorial improvements. It decided to retain the Rules of Procedure of the Commission as a separate document (CLCS/3/Rev.3 and Corr.1).[2]

14. In response to concerns regarding the need of States for some factual information about the scientific data and material contained in the submissions, as well as the analysis effected by the Commission in application of the requirements of article 76 of UNCLOS, the Commission decided that its recommendations should in future include an executive summary, containing a general description of the extended continental shelf, as well as a set of coordinates and illustrative charts, if appropriate, to identify the line describing the outer limits recommended by the Commission. The Secretary-General would then be in a position to publicize the executive summary at his discretion.

15. A training manual to assist States in developing the knowledge and skills for preparation of a submission in respect of the outer limits of the continental shelf is in the process of being prepared by the Division for Ocean Affairs and the Law of the Sea in conjunction with two coordinators, who are members of the Commission. It is anticipated that the manual will be published as a United Nations sales publication.[3] Furthermore, the Commission is currently ready to provide any scientific and technical advice that States preparing submissions might wish to obtain. Information regarding the provision of advice may be obtained from the Commission's web page on the web site of the Division at www.un.org/Depts/los/clcs_new/clcs_home.htm.

16. *The submission of the Russian Federation to the Commission.* The Chairman of the Commission, Peter F. Croker, informed the thirteenth Meeting of States Parties that, after the close of the twelfth session of the Commission, he had received a letter from the Russian Federation stating that the Government would appreciate receiving explanations concerning certain provisions of the recommendations of the Commission on its submission.[4] The Chairman indicated that the Commission had not had the opportunity to discuss the letter. However, in his opinion, given the detailed nature of the questions indicated in the Russian letter, a decision might be taken to refer the questions back to the subcommission. The Russian Federation, recognizing the complexity of the issues facing both its Government and the Commission, hoped that the Commission's response would be prompt and would help its Government plan future activities.[5]

17. *Trust funds related to submissions to the Commission and to participation of Commission members from developing countries in its sessions.* Several developing States, especially least developed States and small island developing States, have applied for assistance from the Trust Fund for the purpose of facilitating the preparation of submissions to the Commission on the Limits of the Continental

Shelf established by the General Assembly in its resolution 55/7 of 30 October 2000. In addition, several requests from coastal States for reimbursement from this Fund for training in the context of assistance in preparing their submissions have been received and are near completion. As regards the Trust Fund for the purpose of defraying the cost of participation of the members of the Commission from developing States in the meetings of the Commission, which was also established by the General Assembly in resolution 55/7, two developing States have taken advantage of this opportunity to send members to attend the twelfth session of the Commission. The Commission has called for additional political and financial support for the Trust Fund, as well as for programmes, especially for developing countries, within the United Nations system and through other appropriate international or regional organizations.

18. *Conference on the Legal and Scientific Aspects of Continental Shelf Limits, Reykjavic, Iceland, 25-27 June 2003.* The Conference was jointly sponsored by the Center for Oceans Law and Policy of the University of Virginia and the Law of the Sea Institute of Iceland. Speakers provided an overview of the legal and scientific aspects of continental shelf limits and also considered the following main issues: geomorphology and geology, ridge issues, the role of the Commission on the Limits of the Continental Shelf and submissions by coastal States, current issues, and resources of the shelf. Participants included scientists, lawyers, government officials and other practitioners engaged in the establishment of the outer limits of the continental shelf beyond 200 nautical miles, or in related research activities, as well as with institutions concerned with the implementation of article 76 of UNCLOS.

19. *Conference on the Morphology and Geological Nature of Deep Seabed and Submarine Elevations in the Arctic Basin, Saint Petersburg, Russian Federation, 29 June-5 July 2003.* Activities during the five-day conference, sponsored by the Russian Federation, included a round table of representatives of the scientific community and experts from coastal States bordering the Arctic Ocean and other interested parties, focusing on "research activities relevant to determination of continental margin limits in the Arctic Ocean: coordination and cooperation". A meeting of representatives from geological surveys of Arctic Ocean coastal States was also held around the theme "arctic geology and mineral resources: prospects of joint circumpolar investigations".

## B. The Area: the work of the International Seabed Authority

20. The ninth annual session of the International Seabed Authority was held from 28 July to 7 August 2003. Its subsidiary bodies, namely the Assembly, the Council, the Legal and Technical Commission and the Finance Committee, also met during the session. The substantive work of the Authority is currently focused on the consideration of the annual reports of contractors, the development of a legal regime for prospecting and exploration of polymetallic sulphides and cobalt-rich crusts, the role of the Authority in the conservation of biodiversity in the Area, activities relating to marine scientific research, the central data repository of the Authority, and its future work programme.

21. With respect to the work of the Authority on the development of regulations for the prospecting of polymetallic sulphides and cobalt-rich crusts found on hydrothermal vents and seamounts respectively, as well as its work in relation to the

conservation of biodiversity in the Area, the Assembly noted that it was the role of the Authority to protect the marine environment from the potential harmful effects of deep seabed mining and that, in that respect, the evaluation of the ecology of the deep ocean was a very important aspect of the Authority's work. To that end, the Assembly invited the Authority to work closely with other relevant international organizations as well as scientific institutions involved in such tasks.

22. The Assembly acknowledged the work of the International Seabed Authority in promoting and encouraging marine scientific research in the Area through such projects as the establishment of the central data repository and the proposal to establish a geologic model for the nodule province of the Clarion-Clipperton Fracture Zone. It noted that the Authority's programme of scientific and technical workshops had continued to improve and had become an essential feature of its work. In that connection, the Assembly welcomed the future work programme of the Authority, including the proposal by the Secretary-General of the Authority to submit to the tenth session a comprehensive three-year plan that would include proposals for streamlining and restructuring the secretariat to reflect the technical emphasis in the work of the Authority.

23. The Assembly also considered a proposal by the secretariat of the Authority to carry out a study on the implications of article 82, paragraph 4, of UNCLOS. Article 82 provides for a system of revenue-sharing with respect to the exploitation by a coastal State of non-living resources of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured. It was generally agreed by the Assembly that the study should be limited strictly to the responsibilities of the Authority set out in the relevant provisions of article 82.

## C. Maritime claims and the delimitation of maritime zones

24. Since the issuance of the last report, Seychelles deposited with the Secretary-General, pursuant to UNCLOS requirements, a list of geographical coordinates of points defining the outer limits of its exclusive economic zone and the continental shelf, as contained in its Maritime Zones, Exclusive Economic Zone and Continental Shelf Order of 14 November 2002.[6] Other developments relating to maritime issues[7] are presented below by region.

25. *African region*. Following the deposit of the list of geographical coordinates of baselines in December 2002, Madagascar communicated its entire Maritime Code, as amended by Act No. 99-028 of 3 February 2000, to the Division for Ocean Affairs and the Law of the Sea. It has been reported that the Moroccan-Spanish task group on delimitation of maritime spaces would hold a session in October 2003 in Rabat and that the two States were committed to working for the conclusion of a bilateral agreement defining provisional arrangements for the delimitation of and potential cooperation zones in maritime spaces along the Atlantic.

26. *Asian and Pacific region*. The Agreement between the Government of Australia and the Government of Timor-Leste relating to the Unitization of the Sunrise and Troubadour fields was concluded in March 2003. It can be recalled that this Agreement was preceded by the conclusion of relevant bilateral treaties in May 2002, namely the Timor Sea Treaty of 2002, the Exchange of Notes constituting an Agreement concerning Arrangements for Exploration and Exploitation of Petroleum in an Area of the Timor Sea between Australia and East Timor, and the

Memorandum of Understanding between the Government of the Democratic Republic of East Timor and the Government of Australia concerning an International Unitization Agreement for the Greater Sunrise field.

27. The Republic of Korea communicated to the Division for Ocean Affairs and the Law of the Sea for information the Enforcement Decree of the Territorial Sea and Contiguous Zone Act as amended by Presidential Decree No. 17803 of 18 December 2002. In June 2002, Indonesia adopted a Government Regulation on the Rights and Obligations of Foreign Ships and Aircraft Exercising the Right of Archipelagic Sea Lane Passage through Designated Archipelagic Sea Lanes to which it has given due publicity through IMO. In July 2003, Malaysia and Singapore jointly seized the International Court of Justice of a dispute concerning sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge. The decision of the Court, when rendered, will have an impact on maritime claims in the area.

28. *Black Sea region*. Romania and Ukraine signed a treaty on the State boundaries in June 2003. The treaty reaffirms the existing land border and, most importantly, establishes a near-shore point, from which a further delimitation of the continental shelf and exclusive economic zones in the Black Sea should start. The maritime section of the boundary is to be determined by a joint commission with a view to finalizing the delimitation in 2004. During the negotiations, the two parties will also determine the relevance of the Zmiyinyy (Serpent) Island (Ukraine) for the calculation of the line delimiting the maritime boundary.

29. *Caribbean region*. The second session of the Conference on Maritime Delimitation in the Caribbean will be held in Mexico City on 13 and 14 October 2003. The Conference represents a regional effort aimed at facilitating the implementation of UNCLOS in the delimitation of maritime boundaries between the States of the Caribbean region, as well as for securing technical assistance. A technical cooperation project and trust fund have been established (see A/58/65, para. 22). The second session of the Conference will focus on issues related to the trust fund and to the further facilitation of and technical assistance to negotiations on the delimitation of maritime boundaries that are voluntarily inscribed in the Registry of the Conference.

30. *Mediterranean region*. The Mediterranean Sea is particularly complex as far as maritime spaces and their delimitation are concerned. In February 2003, Cyprus and Egypt signed an Agreement on the Delimitation of the Exclusive Economic Zone. This Agreement is the first exclusive economic zone delimitation agreement in the Mediterranean Sea and indicates that Cyprus claims an exclusive economic zone under UNCLOS. Egypt had declared its exclusive economic zone in 1983, upon ratification of UNCLOS, and for a number of years Egypt and Morocco (1980) were the only States having established an exclusive economic zone in the Mediterranean Sea. It has been also reported that Croatia intends to proclaim its exclusive economic zone in the Adriatic Sea later in 2003, although it appears that Slovenia has indicated that it would oppose such a proclamation until the two countries adopt a consensual solution with regard to their maritime boundary. Another Agreement regarding the delimitation in the Mediterranean that has been recently brought to the attention of the Division for Ocean Affairs and the Law of the Sea is the Agreement on Provisional Arrangements for the Delimitation of the Maritime Boundaries

between the Republic of Tunisia and the People's Democratic Republic of Algeria, which was negotiated in February 2002.

# IV. Safety of navigation

31. Oil tanker safety, the transport of dangerous goods by sea, coastal States' jurisdiction, capacity-building for the production of nautical charts, flag State implementation and enforcement, ports of refuge, the provision of a place of safety for persons rescued at sea, and the freedom of movement of seafarers balanced against security concerns were some of the issues at the forefront of discussions in several forums during the period under review, including at the Consultative Process. Safety of navigation, for example capacity-building for the production of nautical charts, was one of two areas that the Consultative Process focused on during its fourth meeting in June 2003. A summary of the discussions, including issues to be suggested to the General Assembly for consideration at the fifty-eighth session under the agenda item entitled "Oceans and the law of the sea" are contained in document A/58/95.

## A. Safety of ships and labour conditions

32. Amendments to the 1988 Protocol to the International Convention on Load Lines were adopted in June 2003 by resolution MSC.143 (77) by the IMO Maritime Safety Committee (MSC) at its 77th session (MSC 77) in order to provide for significant improvements in the structural safety of ships, in particular bulk carriers. The amendments are expected to enter into force on 1 January 2005.

33. *Oil tankers*. The IMO Marine Environment Protection Committee (MEPC) at its forty-ninth session (MEPC 49), in July 2003, considered a proposal by 15 member States of the European Union and the European Commission to amend Annex I of MARPOL 73/78 to further accelerate the phase-out of single-hull tankers; provide for the application of the Condition Assessment Scheme to all tankers 15 years of age and above; and to add a new regulation which would require the carriage of heavy grades of oil in double-hull or equivalent design tankers.[8] The Committee agreed with the proposal to move forward the phase-out date for Category 1 (pre-MARPOL) tankers to 2005 instead of 2007. There was also substantial support in principle for the proposal to move forward the phase-out date for Category 2 and 3 tankers (MARPOL tankers and smaller tankers) to 2010. However, concerns were voiced that such a change in date would lead to a phase-out of tankers less than 20 years old. It was suggested that the operational life of such tankers be extended to 2015 or to a specified age, for example, 20, 23 or 25 years, subject to satisfactory results from the Condition Assessment Scheme. The MEPC agreed in principle with the proposal to apply the Condition Assessment Scheme to all single-hull tankers 15 years old or older. It also considered the possible application of the Condition Assessment Scheme to double-hull tankers and to tankers carrying heated oils, and recognized the need for further discussion on the issue.

34. The MEPC agreed that the proposal to add a new regulation to Annex I requiring the carriage of heavy grades of oil in double-hull or equivalent design tankers, required further discussion, in particular in relation to the physical

properties of the heavy grades of oil (see also para. 35). An extraordinary session of the MEPC will be convened in December 2003 to consider the adoption of proposals for an accelerated phase-out scheme for single-hull tankers, along with other measures and to consider any outstanding issues.

35. *Labour conditions*. A new Convention on Seafarers' Identity Documents was adopted in June 2003 at the ninety-first session of the International Labour Conference to replace the 1958 Convention on the same subject.[9] A major feature of the new identity document is the inclusion of a template or other representation of a biometric of the holder. A resolution accompanying the Convention requests the Director-General of ILO to take urgent measures for the development of "a global interoperable standard for the biometric, particularly in cooperation with the International Civil Aviation Organization". The Convention requires Parties to maintain an electronic database of all identity documents issued, suspended or withdrawn, which must also be accessible to the immigration or other competent authorities in ILO member States. Seafarers holding a valid identity document can take shore leave without a visa while the ship is in port. They are also permitted with a valid identity document supplemented by a passport to enter the territory of a Party for the purposes of joining or transferring to a ship, or passing in transit to join their ship in another country or for repatriation.

## B. Transport of dangerous goods

36. *Transport of heavy grades of oil*. During MEPC 49 views differed as to whether the proposal by the 15 member States of the European Union and the European Commission referred to in paragraph 33 represented a new carriage requirement for heavy grades of oil or whether it represented a ban on the use of single-hull vessels. The proposing States said that they considered it a new carriage requirement.

37. *Transport of radioactive material*. The IAEA International Conference on the Safety of Transport of Radioactive Material, held in July 2003, provided an opportunity to discuss critical issues relating to the safety of transport of radioactive material by all transport modes. There was broad agreement at the Conference that the IAEA Regulations for the Safe Transport of Radioactive Material and the regulations of the modal organizations based on the IAEA Regulations provided a sound technical basis for the safe transport of radioactive material and that their application had resulted in an outstanding safety record. Nonetheless, the Conference underlined that it was incumbent upon regulators and the industry to continue to be vigilant about transport safety and to continually reassess practices in the light of changes in technology and advances in assessment techniques. In addition, the terrorist attacks of 11 September 2001 had led to increased attention being paid to the security of all nuclear activities, including transport.

38. The Conference emphasized the importance of rigorous compliance and quality assurance and noted the value of the IAEA Transport Safety Appraisal Service (TranSAS) as a tool for both promoting and demonstrating compliance with the IAEA Regulations. The TranSAS missions to a number of States had enhanced transparency and confidence regarding the regulations and practices of those States in the transport of radioactive material.

39. Among the challenges identified by the Conference was the need to convince all those involved in the transport of radioactive material and also the wider public that the Regulations provided effectively for their safety. Views differed as to the level of communication that should take place between shipping States and en route coastal States prior to a shipment of nuclear materials. It was noted that, while IAEA had specific competence in respect of the transport of radioactive materials, rights of passage for ships and ship operations fell outside its competence. Following some informal consultations among concerned States, the President of the Conference recommended that those States continue informal discussions on the subject after the Conference with the involvement of the Agency.

40. Another issue on which opinions differed at the Conference was the adequacy of the current liability regime relating to accidents during the transport of radioactive material. There was not general adherence to a global liability regime, and the provisions of the liability conventions and the relationships between them were difficult to understand. Following some informal consultations among concerned States, the President of the Conference concluded that the preparation of an explanatory text for those instruments by the secretariat of IAEA, with the assistance of an independent group of legal experts appointed by the Director-General, would assist in developing a common understanding of what were complex legal issues, and thereby promote adherence to those instruments.

## C. Safety of navigation

41. New chapter V of SOLAS was amended at MSC 77 in order to clarify what is meant by the length of a ship and to require all ships of 500 gross tonnage and above, engaged in international voyages exceeding 48 hours, to submit a daily report to the company providing details as to their position, course and speed and any external or internal conditions affecting the ship. The amendments, which were adopted by resolution MSC.142(77), are expected to enter into force on 1 July 2006.

42. The Sub-Committee on Safety of Navigation (NAV) at its forty-ninth session (30 June to 4 July 2003) approved several routeing measures for submission to the MSC for adoption in 2004, including the establishment of new traffic lanes in the exclusive economic zone of Spain for ships carrying dangerous cargo in bulk; and areas to be avoided in the Adriatic Sea and in the Paracas National Reserve of Peru. NAV approved for the first time the establishment of a mandatory area to be avoided for an area off the north-east coast of New Zealand. It also approved amendments to the existing mandatory ship reporting systems in the Torres Strait and the Inner Route of the Great Barrier Reef off the coast of Australia and off Cape Finisterre off the coast of Spain. Furthermore, NAV approved amendments to the General Provisions on Ships' Routeing in order to clarify the procedure to be followed by an Archipelagic State when publicizing its designation of archipelagic sea lanes adopted by IMO.[10]

## D. Implementation and enforcement

43. The importance of strengthening flag State implementation and enforcement was underscored at the fourth meeting of the Consultative Process and a number of recommendations were made to the General Assembly in that regard. The Process

also took note of the establishment of the Consultative Group on Flag State Implementation and requested the Group to submit its report to the fifth meeting of the Process (see paras. 142-143). It is interesting to note that the shipping industry is currently developing industry guidance on flag State performance, which is expected to be finalized during 2003.[11]

44. *Voluntary IMO Model Audit Scheme*. IMO has begun developing a Voluntary IMO Model Audit Scheme. The Joint MSC/MEPC/TCC Working Group, which has been assigned the task, has identified the enactment of appropriate legislation, its implementation and enforcement as the three key actions on which a member State's performance as a flag, port and/or coastal State could be measured with respect to its treaty obligations. The IMO conventions proposed for inclusion within the scheme are SOLAS, MARPOL 73/78, the International Convention on Load Lines, the International Convention on Tonnage Measurement of Ships, the Convention on the International Regulation for Preventing Collisions at Sea and the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers.[12] Only a general reference to UNCLOS has been included in order to acknowledge it as an umbrella convention and to note that the provisions which are relevant to the scheme are implemented through IMO instruments. Divergent views exist regarding the extent to which the audit scheme should be linked to the draft Code for Implementation. The Working Group agreed that the framework of the scheme should be developed in such a way that, if the draft Code did not materialize, the scheme would remain independent and viable. At the same time, it also decided that the obligations and responsibilities contained in the applicable IMO instruments should be auditable in accordance with the draft Code for Implementation.[13]

45. The Working Group agreed that capacity- and infrastructure-building were essential for the success of the scheme and has proposed their inclusion in the audit scheme. The recommendations of the Group were endorsed by MSC 77, the Council and MEPC 49, as well as a draft Assembly resolution on the Voluntary Model Audit Scheme. The Group is scheduled to finalize its work on the scheme by June 2005.

46. *Draft implementation code*. What was initially conceived as a draft flag State implementation Code has now been transformed into a draft Code for the implementation of [mandatory] IMO instruments applicable to flag, port and coastal States. MSC 77 endorsed the recommendations of the Subcommittee on Flag State Implementation at its eleventh session to include within the Code not only the responsibilities of flag States, but also those of port States and coastal States. It also endorsed the need to ensure compatibility between the voluntary model audit scheme and the Code.[14]

## E. Assistance in distress situations

47. *Persons in distress*. MSC 77 approved draft amendments to chapter V of SOLAS and to the International Convention on Maritime Search and Rescue for adoption in 2004. The draft amendments require Contracting Governments to coordinate and cooperate to ensure that masters of ships providing assistance by embarking persons in distress at sea are released from their obligations with minimum further deviation from the ship's intended course. The Contracting Government responsible for the search and rescue region in which such assistance is

rendered must exercise primary responsibility for ensuring such coordination and cooperation occurs, so that survivors are disembarked from the assisting ships and delivered to a place of safety, taking into account the particular circumstances of the case and guidelines developed by IMO. In these cases, the relevant Contracting Governments are required to arrange for such disembarkation to be effected as soon as reasonably practicable. The guidelines referred to in the draft amendments are under development and are expected to be approved or adopted at MSC 78.[15]

48. *Places of refuge*. Draft Guidelines on Places of Refuge for Ships in Need of Assistance have been developed most recently by NAV 49 together with a draft IMO Assembly resolution on the establishment of maritime assistance services. MSC 77 decided that there was, for the time being, no need to develop an IMO convention on places of refuge and that the draft Guidelines on Places of Refuge should not designate pre-identified places of refuge. Prior to the submission of the draft Guidelines on Places of Refuge to the IMO Assembly for adoption later this year, the forthcoming session of the Legal Committee in October will consider providing guidance as to which international instruments, including those addressing compensation and liability, if appropriate, should be included in the draft Guidelines.

## V. Crimes at sea

49. The potential use of ships for terrorist acts, or for other illicit purposes, such as illicit traffic in narcotic drugs and psychotropic substances, continues to be a matter of serious concern to the international community. Another area of concern remains the high incidence of acts of piracy and armed robbery: here the ship itself becomes an object of attack and its crew the victims. More recently, the illicit transport of arms and weapons has been receiving increasing attention. The link between the illicit transport of arms by ships and human rights abuses in many regions of the world was highlighted, for example, in the Consultative Process and in the Meeting of States Parties.[16] Currently, the use of ships for trafficking weapons of mass destruction is receiving intense scrutiny.

### A. Prevention and suppression of acts of terrorism against shipping

50. IMO has agreed to include new offences against the security of navigation in addition to the existing offences against the safety of navigation in the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988 (SUA Convention) and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 1988 (SUA Protocol). The scope of the proposed new offences is still under discussion. It has been agreed to include terrorist acts, but the proposal to criminalize the transport of weapons of mass destruction on board a ship with full knowledge that they will be transferred in violation of the international conventions governing weapons of mass destruction was considered, at the 86th session of the Legal Committee (LEG 86), a legal innovation which should be further assessed. Closely linked to the discussions on offences are the proposed new interdiction measures, which would enable a State Party other than the flag State to take enforcement action with respect to a vessel that it has reasonable grounds to suspect is involved in, or the target of, the

commission of an offence under the SUA Convention. At LEG 86, a number of delegations expressed support in principle for the inclusion of interdiction measures. The amendments to the SUA Convention and its Protocols are currently being developed in the form of draft protocols to both instruments, which LEG plans to have ready for consideration by a diplomatic conference in the biennium 2004-2005.[17]

## B. Trafficking in weapons of mass destruction

51. Measures to combat trafficking in weapons of mass destruction, missiles and related items by sea were also the focus of discussion at meetings held in Madrid, Spain, on 12 June and in Brisbane, Australia, on 9 and 10 July 2003 attended by Australia, France, Germany, Italy, Japan, the Netherlands, Poland, Portugal, Spain, the United Kingdom and the United States. The Brisbane meeting focused on defining actions necessary to collectively and individually interdict shipments of weapons of mass destruction and other items at sea. The 11 States participating in what is known as the Proliferation Security Initiative reiterated that actions taken would be consistent with existing domestic and international legal frameworks and agreed that effective implementation of the Initiative required the active involvement of countries around the world, in particular key flag, coastal or transit States. Participants agreed to, inter alia, strengthen capabilities for the exchange of information and analysis between participants and to develop and enhance capabilities to conduct maritime, air and ground interdictions by conducting a series of interdiction training exercises as soon as possible. The next meeting of the Proliferation Security Initiative is scheduled to be held in early September 2003.[18]

52. Interdiction of foreign ships on the high seas and in the exclusive economic zone is currently permitted under international law only in certain limited situations specifically regulated by international treaties, for example, in the case of piracy, if a ship has no nationality, or if there is a suspicion that the ship is engaged in illicit traffic in narcotic drugs and psychotropic substances. The Protocol against the Smuggling of Migrants by Land, Sea and Air, which is not yet in force, permits interdiction of a ship that is suspected of being engaged in the smuggling of migrants by sea.

## C. Piracy and armed robbery against ships

53. The number of reported incidents of piracy and armed robbery against ships worldwide in the first six months of 2003 rose by 37 per cent to 234 compared with 171 during the corresponding period in 2002, according to the International Maritime Bureau of the International Chamber of Commerce. During the period, 16 seafarers were killed and 52 injured. Ships were boarded in 165 instances and nine ships were hijacked.[19]

54. Governments, especially those with responsibility in identified high risk areas have been invited by IMO to promulgate security advice to port facilities within their territory, as well as to ships prior to entering a port or while in a port within their territory (as required by new SOLAS regulation XI-2/3), to ensure the protection of ships and crew from piracy and armed robbery attacks.[20]

55. Recognizing the importance of regional cooperation and technical assistance, IMO decided at MSC 77 to continue the anti-piracy project it had begun in 1998. Future plans include a meeting for South American and Caribbean countries in September 2003 and a meeting thereafter for the Asia and Pacific region to promote the conclusion of regional agreements/memorandums of understanding on the prevention and suppression of piracy and armed robbery against ships. IMO also intends to undertake expert missions to other regions of the world upon the request of the countries concerned.

56. Deeply concerned at the rising incidents of piracy and armed robbery at sea in the Asia-Pacific Region, the Ministers participating at the tenth Regional Forum of the Association of the South-East Asian Nations, held on 18 June 2003, in their "Statement on Cooperation Against Piracy Other Threats to Maritime Security", committed their countries to undertaking concrete cooperative measures for combating piracy and other maritime crimes. They also endorsed the ongoing efforts to establish a legal framework for regional cooperation to combat piracy and armed robbery against ships. It can be noted that Japan has taken the initiative to develop a regional cooperation agreement on anti-piracy in Asia in close cooperation with 15 other States in the Asian region.

## D. Illicit traffic in narcotic drugs and psychotropic substances

57. Illicit traffic in narcotic drugs, psychotropic substances and precursors by sea continues to be of major international concern. Traffickers are resorting to new methods to traffic drugs in order to bypass increased security at air- and seaports since 11 September 2001.

58. Cooperation among States is very important for the suppression of illicit traffic of narcotic drugs and psychotropic substances by sea. In order to facilitate such cooperation, the United Nations International Drug Control Programme has prepared, with the assistance of an expert working group, a Practical Guide for Competent National Authorities under Article 17 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, to be published later in 2003. The Guide addresses the legal and practical considerations to be borne in mind when establishing/designating a competent national authority. It reviews most of the common tasks of competent national authorities, that is, the receipt, response to, and formulation of requests under article 17, from policy and decision-making, to operational coordination and follow-up. The Guide also covers some special issues, like the handling of requests under article 17 concerning vessels without nationality and own-flag vessels. Finally, it suggests the use of three model forms in order to expedite what in practice has become a significant delay for taking action, namely, the requirement in article 17 for the flag State to confirm registry before authorization can be given to another State to board the vessel. The model forms annexed to the Guide contain respectively a request for authorization under article 17; a response to a request for authorization; and a report on action taken.

59. Several States, both in and outside the Caribbean region, have concluded an Agreement concerning Cooperation in Suppressing Illicit Maritime and Air Trafficking in Narcotic Drugs and Psychotropic Substances in the Caribbean Area. This Agreement, which covers a wide range of maritime cooperation issues in combating illicit traffic in narcotic drugs, permits another State to conduct law

enforcement operations to suppress illicit traffic in and over the territorial sea and archipelagic waters of a State if authorized to do so by that State. For operations seaward of the territorial sea, the flag State's authorization to board and search a vessel flying its flag, its cargo and persons on board is not required in order for another Party to conduct operations, unless that flag State has notified the Depositary upon signature, ratification, acceptance or approval of the Agreement, that its ships can only be boarded when it gives its express consent, or if it does not confirm nor deny nationality within four hours. The Agreement requires each Party to take such measures as may be necessary to establish its jurisdiction if the offence is committed: (a) in waters under its sovereignty or where applicable in its contiguous zone; (b) on board a vessel flying its flag or an aircraft registered under its laws at the time the offence is committed; (c) on board a vessel without nationality, or assimilated to one under international law; and (d) on board a vessel flying the flag or displaying marks of registry or bearing any other indication of nationality of another Party.

# VI. Living marine resources, the marine environment and sustainable development

## A. Conservation and management of living marine resources

60. The need to improve global governance of the world's marine living resources as well as the importance of identifying ways and means that would ensure sustainable development of marine resources continue to dominate the debate of the international community over conservation and management of marine living resources. The debate has been compounded by recent studies that indicate that, in a mere 50 years, industrial fishing fleets had managed to wipe out nine tenths of the world's biggest and most economically important species of fish, including cod, halibut, tuna and swordfish.[21] Experts believe that this level of depletion not only threatens the livelihood of fishers and an important source of protein, but could also unbalance marine ecosystems.[22]

61. In view of this situation, serious efforts are being undertaken to remedy the deplorable state of much fishery conservation and management and to ensure long-term sustainability of fish stocks, bearing in mind that the Johannesburg Plan of Implementation of the World Summit on Sustainable Development urged the international community to maintain or restore fish stocks to levels producing the maximum sustainable yield not later than 2015. During the reporting period, these efforts were focused, inter alia, on conservation of high seas marine living resources and biodiversity, including the application of an ecosystem-based approach for such conservation; ways and means to ensure that flag States fulfil their duties with respect to fishing vessels flying their flag, as an effective tool to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing; port State measures; and on measures aimed at implementing international instruments for the conservation and sustainable use of fishery resources. A report on progress made in the implementation of responsible fisheries and dealing with the problem of IUU fishing was provided by a representative of the Food and Agriculture Organization of the United Nations (FAO) at the fourth meeting of the Consultative Process.

### 1. Second round of informal consultations of States parties to the Fish Stocks Agreement

62. The second round of informal consultations of States parties to the Fish Stocks Agreement was held in New York from 23 to 25 July 2003, pursuant to paragraph 17 of General Assembly resolution 57/143 of 12 December 2002, in which the Assembly requested the Secretary-General to convene a second round of informal consultations with States that had either ratified or acceded to the Agreement, for the purposes and objectives of considering the national, regional, subregional and global implementation of the Agreement, and making any appropriate recommendation to the General Assembly. In addition, the Assembly urged the States parties to develop the terms of reference for the Part VII fund to assist developing States Parties in the implementation of the Agreement, on the basis of the recommendations agreed upon by States parties at their first informal consultations in 2002 (see A/57/57/Add.1, para. 69 (c)).

63. Following consideration of the report of the Secretary-General on the status and implementation of the Fish Stocks Agreement, with special reference to Part VII of the Agreement dealing with the requirements of developing States, and a review of the implementation of the Agreement, at the national, subregional or regional level, including implementation of articles 5 (General principles), 6 (Precautionary approach) and 7 (Compatibility of conservation and management measures), (see A/58/_) the States Parties agreed on the terms of reference for the Assistance Fund to be established under Part VII of the Agreement.

64. Accordingly, the States parties decided, at the second round of informal consultations, to recommend to the General Assembly at its fifty-eighth session the establishment of an Assistance Fund under the Agreement to assist developing States parties in the implementation of the Agreement, to be administered by FAO, as the implementing office for the Fund, in collaboration with the United Nations, in accordance with the terms of reference agreed at the second round of informal consultations and appropriate arrangements made between the two organizations. The States parties also agreed to request the General Assembly to convene the third round of informal consultations of the States parties in 2004.

### 2. Enforcement measures to address IUU fishing on the high seas

65. A round table on the Sustainable Development of Global Fisheries, with Particular Reference to Enforcement against IUU fishing on the High Seas was convened on 6 June 2003, by the Organisation for Economic Cooperation and Development (OECD) for the purpose of drawing the attention of the international community to a key issue that stood in the way of attempts to manage global fishery resources in a sustainable way — namely, the difficulty of enforcing good practice and legal instruments relating to fisheries management on the high seas, especially in relation to the intractable issue of IUU fishing. The round table, attended by Fisheries Ministers, experts from international organizations (FAO, IMO, the United Nations), non-governmental organizations (NGOs) and professional associations, considered various legal and trade-related issues as well as technical challenges that were involved in the problem of IUU fishing.

66. While the adoption of a number of binding and non-binding international instruments by international organizations or regional fishery management bodies had changed the nature and location of IUU fishing, it had nonetheless continued.

One reason was that few States had ratified and implemented those instruments. Actions recommended to deal with the problem included the following: (a) implementing the FAO International Plan of Action to Prevent, Deter and Eliminate IUU Fishing at the national level; (b) tackling the practice through human rights, security, terrorism, maritime safety, crew conditions, weapons trade and narcotic angles, as a means of highlighting the way in which IUU activity intersected with other illegal activities; (c) ensuring transparency in vessel registration, as a possible way of addressing flags of convenience, including close consideration of the contentious question of "genuine link" between the flag State and vessels flying its flag; (d) agreeing on sanctions that should be applied if the lack of genuine link negated flag State control over a vessel; (e) establishing an international standardization of vessel registration processes, as well as sharing information about vessel registration at the global and regional levels; (f) addressing the lack of legal enforcement on the high seas; and (g) introducing port State control to ensure that services were refused to IUU fishing vessels and that information was shared about such vessels. In addition, it has been suggested that States should do more to penalize nationals engaged in IUU fishing activity.

67. With regard to the economic dimensions of IUU fishing, the round table emphasized the role of subsidies that encouraged overcapacity. The displacement of fishing fleets from areas under the national jurisdiction of OECD member States, with or without the help of subsidies, to fisheries located in developing countries was identified as a significant problem that encouraged the expansion of IUU fishing with negative implications for global fisheries. In view of the profitability of IUU fishing activities, owing to their low marginal cost and the high price of fish targeted by IUU fishing, the adoption of, inter alia, the following measures was recommended: (a) enforcement at all levels of transactions in IUU fish products, not only on IUU fishing activities; (b) implementation of eco-labelling, DNA tracing, catch documentation schemes and other trade measures, as means towards closing markets to IUU fishing products; (c) introduction of heavy fines, active vessel confiscation and destruction, and imprisonment for the more egregious national offenders; and (d) use of the OECD Guidelines for multinational enterprises to help persuade multinational enterprises not to support IUU fishing activities by, for instance, denying them insurance services and other services, in recognition of the fact that corporate responsibility was also an important component in addressing the issue.

68. Greater use of vessel monitoring systems (VMS), satellite tracking, closer collaboration between scientists and enforcement experts and an expansion of the use of forensic accounting to detect IUU fishing activities were among the technical measures identified by the round table as necessary to ensure compliance with and enforcement of conservation and management measures. It was suggested that countries should do more to support the pooling/sharing of skilled officers through regional fisheries organizations.

69. The round table concluded by indicating that, notwithstanding the measures available to fight IUU fishing, a pressing problem remained: the lack of political will to implement international instruments which could reduce and possibly end the practice, to ensure domestic coordination with a view to developing a coherent and effective response at the international level, and to assist developing countries, where a significant proportion of global fisheries are located, in enforcing IUU-related legislation, and providing them with the technological means to do so.

### 3. Annual meeting of the International Whaling Commission

70. At its fifty-fifth annual meeting in June 2003, the International Whaling Commission (IWC) considered such issues as the timeliness of implementing its revised management scheme; proposals to establish sanctuaries in the South Pacific and South Atlantic; adoption of catch limits for aboriginal subsistence whaling; and requests for scientific permits.

71. The IWC reiterated once again that work on a revised management scheme had to be completed before the Commission could consider establishing catch limits other than zero for commercial whaling. As in the case of last year's meeting, proposals to establish whale sanctuaries in the South Pacific and the South Atlantic did not receive the three-quarters majority required for their adoption.

72. The Commission adopted two resolutions: the first urged countries to terminate or not to commence special permit whaling operations; and the second one called on Japan to halt its special permit catches of Antarctic minke whales. In both resolutions, the Commission requested that scientific research on whales be conducted with non-lethal methods only. Furthermore, in a major decision that has the potential of having a major impact on the future policy orientation of IWC, the Commission decided to establish a conservation committee entrusted with: (a) the preparation and recommendation to the Commission of its future conservation agenda; (b) the implementation of those items in the agenda that the Commission might refer to it; and (c) making recommendations to the Commission in order to maintain and update the conservation agenda on a continuous basis.

### 4. Marine and coastal biodiversity

73. Marine and coastal biodiversity is increasingly under pressure from unsustainable exploitation and from other human activities, for example, sand extraction, sediment run-off, pollution and unsustainable tourism. Climate change and the introduction of alien species constitute more long-term threats. While the greatest threats affect biodiversity in coastal areas, a number of studies have demonstrated that biodiversity in the open oceans is also increasingly threatened.[23]

74. Following an in-depth review of the programme of work on marine and coastal biological diversity (Jakarta Mandate) at its eighth meeting, held in March 2003, the Subsidiary Body on Scientific Technical and Technological Advice of the Conference of the Parties to the Convention on Biological Diversity (SBSTTA), recommended its extension by an additional six years, with some refinements to the programme to reflect recent developments and new priorities.[24] The recommendations of the SBSTTA will be considered at the seventh meeting of the Conference of the Parties to the Convention in March 2004. The Conference of the Parties will also consider its multi-year programme of work up to 2010. It is proposed that the Conference of the Parties should undertake an in-depth review of the work under the marine and coastal thematic area at its tenth session.[25]

75. With regard to the thematic areas of the Jakarta Mandate, SBSTTA adopted recommendations in relation to mariculture and marine and coastal protected areas. On the basis of a report of the Ad Hoc Technical Expert Group on Mariculture,[26] it adopted a number of recommendations aimed at ensuring the adoption and use of relevant methods and techniques for avoiding the adverse effects of mariculture on marine and coastal biological diversity as part of national biodiversity strategies and

action plans. With regard to marine and coastal marine protected areas, SBSTTA, on the basis of the report of the Ad Hoc Expert Group on Marine and Coastal Protected Areas (see A/58/65, para. 225) and in accordance with the recommendations of the Johannesburg Plan of Implementation, urged the establishment, as a matter of high priority, of effective marine and coastal biodiversity management frameworks, covering all areas subject to national jurisdiction, including by establishing a representative network of marine and coastal protected areas and by improving the effectiveness of existing marine and coastal protected areas. Moreover, the meeting noted that there was an urgent need to establish marine protected areas in areas beyond national jurisdiction consistent with international law, and based on scientific information. Relevant organizations were asked to identify appropriate mechanisms for the establishment and effective management of marine protected areas beyond national jurisdiction.

76. SBSTTA also considered the conservation and sustainable use of genetic resources of the deep seabed beyond national jurisdiction on the basis of a study on the relationship between the Convention on Biological Diversity and UNCLOS.[27] The meeting recommended that further information on the status and trends of deep seabed genetic resources and on methods to identify, assess and monitor genetic resources of the deep seabed in areas beyond national jurisdiction be gathered by relevant actors. It recommended that Parties to the Convention on Biological Diversity and other States identify activities and processes under their jurisdiction or control which may have significant adverse impact on deep seabed ecosystems and species beyond the limits of national jurisdiction. A further recommendation was that the General Assembly be invited to call upon relevant international organizations to review issues relating to the conservation and sustainable use of these resources and to recommend appropriate actions to the Assembly.

77. It can be noted in this context that the Legal and Technical Commission during the ninth session of the International Seabed Authority proposed to the Council the convening of a seminar on seabed and deep-ocean biodiversity relevant to mineral resource prospecting and exploration. The Commission also requested one of its members to prepare a paper on the legal implications related to the management of high seas biodiversity (see also para. 20).

78. The fourth meeting of the Consultative Process, under the area of focus on the protection of vulnerable marine ecosystems, adopted a number of recommendations relating to marine biodiversity in areas within and beyond national jurisdiction (see A/58/95). Furthermore, two workshops were organized in 2003 to address the issue of biodiversity beyond national jurisdiction and in order to assist in the implementation of the relevant recommendations contained in the Johannesburg Plan of Implementation. The first, "Towards a Strategy for High Seas Marine Protected Areas" (15-17 January 2003, Malaga, Spain), was aimed at developing an action plan to promote a system of high seas marine protected areas to ensure long-term protection and wise use of ecosystems processes, biodiversity and productivity beyond national jurisdiction.[28] The second, "Workshop on the Governance of High Seas Biodiversity Conservation" (16-20 June 2003, Cairns, Australia), was a type 2 partnership initiative emanating from the World Summit for Sustainable Development and sponsored by the Government of Australia in cooperation with several other Governments, intergovernmental organizations and NGOs. The workshop identified the key threats to biodiversity beyond national jurisdiction, existing governance frameworks and gaps in legal and institutional arrangements. It

noted the delicate balance of international rights and duties in areas outside national jurisdiction. The participants suggested a range of short-term and long-term options to promote sustainable use and conservation of biodiversity and ecosystems beyond national jurisdiction. Participants in a related workshop on "Ecosystem-based management" identified challenges to implementing ecosystem-based management, as well as ways in which it can contribute to the conservation and management of oceans at the regional level.

## B. Protection and preservation of the marine environment

### 1. Land-based activities

79. The marine environment is being increasingly degraded by pollution from sewage, persistent organic pollutants, radioactive substances, heavy metals, oils, litter, the physical alteration and destruction of habitats, and the alteration of timing, volume and quality of freshwater inflows. This has significant negative implications of global magnitude for human health, poverty alleviation, food security and safety and for affected industries, as well as increasing social environmental and economic costs.[29]

80. The Global Programme of Action for the Protection of the Marine Environment from Land-based Activities (GPA) provides conceptual and practical guidance to be drawn upon by national and/or regional authorities for devising and implementing sustained action to prevent, reduce, control and/or eliminate marine degradation from land-based activities. A report on the implementation of the GPA was provided to the fourth meeting of the Consultative Process by a representative of UNEP.[30]

81. Pursuant to the Montreal Declaration on the Protection of the Marine Environment from Land-Based Activities and the Johannesburg Plan of Implementation, the recent work of the GPA Coordination Office has focused on the implementation of the UNEP/WSSCC/WHO/Habitat Strategic Action Plan on Municipal Wastewater; the Programme on Physical Alterations and Destruction of Habitats; and support for adoption of national programmes of action to implement the GPA.[31]

82. The GPA Coordination Office is developing guidance on municipal wastewater management, which includes key principles for municipal wastewater management for policy and decision-makers.[32] These will be reviewed at the twenty-third session of the UNEP Governing Council. At its twenty-second session, the Governing Council urged Governments to adopt a holistic environmental approach to sanitation and to the implementation of the targets of the World Summit on Sustainable Development on water and sanitation.[33] A holistic environmental definition of "sanitation" would incorporate not only the provision of sanitation services, but all other components of the wastewater management process, including treatment, reuse and re-allocation to the natural environment. It would also emphasize that the protection of coastal and marine environments is an important component of the Summit's target on sanitation.

83. To address the relationship, also underlined in the Montreal Declaration, between poverty and degradation of the marine environment, the Governing Council stressed the link between the implementation of the GPA and the outcomes of the

Monterrey Consensus on Financing for Development, as well as the Johannesburg Plan of Implementation. The identification of such a link should encourage poverty reduction strategies and global efforts to effectuate the Johannesburg Plan of Implementation, the Millennium Development Goals and the Monterrey Consensus to place increased emphasis on the interrelationship between freshwater, the coastal zone and marine resources.

84. Activities and efforts of the GPA Coordination Office relating to the Programme on the Physical Alteration and Destruction of Habitats have concentrated on the legal, economic and scientific aspects of major infrastructure works impacting on the coastal environment, in particular as they relate to tourism, aquaculture and mining developments. Draft guidelines have been developed and are presently being reviewed by a wide group of stakeholders.

85. In order to enhance implementation of the GPA at the national level, the Coordination Office has funded, with the support of donors, the development of national programmes of action for the protection of the marine environment from land-based activities (see A/57/57, para. 352). It has also developed a handbook on the Development and Implementation of National Programmes of Action.[34] The Hilltops to Oceans (H2O) type II initiative launched at the World Summit for Sustainable Development aims at the further development of no fewer than 40 national programmes of action on land-based activities by 2006, and at advancing the development and use of wastewater emission targets as a tool for managing the interface between our need to use water for sanitation, industry and other purposes, and the need to protect the marine environment from the harmful effects of land-based activities.

86. The Global Environment Facility (GEF), in particular through its international waters projects, continues to play a vital role in funding projects addressing the links between land and water management and biodiversity. In 2002 the GEF Council approved the project entitled "Russian Federation — Support to the national programme of action for the protection of the Arctic marine environment". In 2002, the GPA Coordination Office contributed, with the support of donors, to the GEF project entitled "Development and protection of the marine and coastal environment in sub-Saharan Africa". It also received a PDF-A grant to prepare a medium-sized project proposal for the protection of the South-east Pacific from land-based activities. The proposal will be submitted to GEF in 2003.

87. IAEA has continued its efforts to assemble information and data on all inputs of radioactive materials into the world oceans for inclusion in its database. In 2002, it established contact with national organizations in 33 countries nominated by their Governments as counterparts for the provision of data for the IAEA database and held a first meeting of these national contact points. The information gathered on the inputs of radioactive material into the oceans will be incorporated into the IAEA Clearing House on Radioactive Substances to be linked to the GPA.

### 2. Pollution from vessels

88. During the period under review, IMO focused its attention on the consideration of proposed measures in response to the incident involving the vessel *Prestige*, in particular those relating to the accelerated phase-out of single-hull vessels; a carriage requirement for heavy grades of oil in double-hull vessels (see paras. 32-33 and 35); the designation of a wide sea area off the western coasts of Belgium,

France, Ireland, Portugal, Spain and the United Kingdom as a particularly sensitive sea area; and an increase in the limits of compensation in case of oil pollution. MEPC 49 also finalized its work on the international convention for the control and management of ships' ballast water and sediments to be considered at a diplomatic conference next year; examined the implications of the entry into force of annex IV of MARPOL 73/78; approved a draft IMO Assembly resolution on the reduction of greenhouse gas emissions from ships; adopted two guidelines respectively for brief sampling and for inspection of anti-fouling systems on ships (MEPC resolutions ... (49) and ... (49)) and considered the possibility of a regional approach to the requirement to provide reception facilities under MARPOL 73/78, among several other issues.[35]

89. *Pollution from sewage*. Annex IV of MARPOL 73/78 did not enter into force for many years because it lacked the support of Governments. Consequently, MEPC revised the annex and the text was approved by all Governments in resolution MEPC.88(44) in 2000. MEPC further encouraged its member States to become party to the original annex IV because the revised annex could not be officially adopted and become effective until the original annex had entered into force. Sufficient ratifications having been received, the original annex IV will enter into force on 27 September 2003 and MEPC will be in a position to adopt the revised annex IV in March 2004. Once adopted, it will become effective in July 2005. Parties to annex IV have been requested to apply provisionally the revised annex until it enters into force. In the event of conflict or inconsistency, annex IV would prevail as a matter of international law.[35]

90. *Harmful aquatic organisms in ballast water*. An international convention for the control and management of ships' ballast water and sediments is scheduled to be considered and adopted at a diplomatic conference in February 2004. An article-by-article review of the draft text of the proposed convention was conducted by MEPC 49. Views remained divided on whether a party to the convention could take more stringent measures consistent with international law without prior approval by IMO. While some understood the reference to party to mean a port State, others considered it could also refer to a coastal State. One delegation said that article 211(6) of UNCLOS required States wishing to impose more stringent requirements to seek the approval of IMO.

91. *Reception facilities*. The obligation under MARPOL 73/78 to provide adequate reception facilities remains a major impediment to its adoption by States, in particular by small island developing and other developing States. The South Pacific Regional Environment Programme drew the attention of MEPC 49 to the fact that only three ports in the region currently had adequate reception facilities and proposed a regional approach to the provision of adequate waste reception facilities, based on several "regional ships' waste reception centers", which would satisfy the relevant MARPOL obligations for the Pacific island countries.[37] MEPC 49 agreed that "regional arrangements", such as the one proposed by the South Pacific Regional Environment Programme was an acceptable way of satisfying MARPOL 73/78 obligations to provide adequate reception facilities for ships. However, since the provision of adequate reception facilities is a condition for ratification of MARPOL 73/78, MEPC will consider at a future meeting whether a resolution is required to recognize the regional arrangement and whether any general guidelines should be established for future similar cases.

92. *Particularly sensitive sea areas (PSSAs).* MEPC 49 designated the Paracas National Reserve of Peru as a PSSA. The Committee also designated in principle, subject to the approval of associated protective measures by NAV, two other marine areas as PSSAs: the Torres Strait Region as an extension of the Great Barrier Reef PSSA;[38] and the western coasts of Belgium, France, Ireland, Portugal, Spain and the United Kingdom from the Shetland Islands in the North to Cape Vicente in the South, and the English Channel and its approaches.[39]

93. The proposed Western European PSSA is a wide sea area which encompasses the territorial seas and certain parts of the exclusive economic zones of Belgium, France, Spain and Portugal. It also covers certain parts of the fishery zones claimed by Ireland and the United Kingdom, which is referred to in the submission as the Pollution Control Zone of the United Kingdom and the Pollution Response Zone of Ireland. At MEPC 49 the six proposing Governments agreed to reduce the size of the area east of the Shetland Islands by bringing the easterly line to 0° longitude. They also withdrew the proposal "to prohibit the carriage of heavy grades of oil through the PSSA in vessels of more than 600 dwt, except in double-hull tankers" and instead agreed that, at this stage, the only associated protective measures linked to the PSSA would be an obligation to report entry into the area 48 hours in advance. At MEPC 49, a number of delegations questioned whether there was a legal basis for designating such a wide geographical sea region as a PSSA and expressed the view that it might have been more appropriate to propose a number of smaller PSSAs within the area. They expressed concern that a large PSSA would lead to limitations or even the prohibition of shipping operations which may result in a revision of UNCLOS. Those delegations were advised that they could seek the Legal Committee's opinion before MEPC decides on the PSSA designation in October 2004.

94. The proposed associated protective measure will be considered by NAV next year. Mandatory reporting is provided for in regulation 11 of the revised SOLAS chapter V, but has so far not been applied to such a wide sea area. SOLAS requires ship reporting systems to be operated in accordance with the guidelines and criteria developed by IMO. These stipulate that ships which are required by a system to report to a shore-based authority should do so without delay upon entering and, if necessary, when leaving the area. Likewise, the IMO general principles for ship reporting systems and ship reporting requirements, including guidelines for reporting incidents involving dangerous goods, harmful substances and/or marine pollutants, recommend that when a ship is within or near an area for which a ship reporting system has been established, reports should be transmitted to the designated shore station of that system.

95. *Liability and compensation.* Additional compensation is likely to be available in future for victims of oil pollution from oil tanker accidents, following the adoption of a new Protocol to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage of 1992 on 16 May 2003.[40] The aim of the new Fund is to supplement the compensation available under the 1992 Civil Liability and Fund Conventions with a third tier of compensation. The total amount of compensation payable for any one incident will be 750 million special drawing rights (just over US$ 1,000 million), which includes the amount payable under the existing Civil Liability and Fund Conventions. Membership of the Supplementary Fund is optional, and any State which is a Member of the 1992 Fund may join. The Protocol will enter into force three months

after it has been ratified by at least eight States which have received a combined total of 450 million tons of contributing oil in a calendar year. The Supplementary Fund will only pay compensation for pollution damage in States which are Members of the Supplementary Fund for incidents which occur after the Protocol has entered into force.

## VII. Marine science and technology

96. The important role of marine science and technology in promoting the sustainable management and use of the oceans and seas has been recognized by the international community and in particular at the second meeting of the Consultative Process (see A/56/121). Science and technology are essential tools for ensuring sustainable development and the protection of the marine environment and its ecosystems.

97. In the field of marine scientific research, the competent international organization as referred to in annex VIII of UNCLOS, is the Intergovernmental Oceanographic Commission of UNESCO (IOC). Its activities are channelled through three interrelated programmes all of which are related to or based on marine science and are developed in collaboration with other organizations including UNEP, WMO, the International Council of Scientific Unions and the International Union for the Conservation of Nature and Natural Resources. These programmes are: ocean sciences, ocean services and operational observing systems.[41] In addition, IOC was mandated to respond, as a competent international organization, to the requirements deriving from UNCLOS relevant to marine scientific research, related services and capacity-building.

98. In this regard, the IOC, through its Advisory Body of Experts on the Law of the Sea (ABE-LOS), has been actively engaged in the implementation of UNCLOS with regard to Part XIII on marine scientific research and Part XIV on development and transfer of marine technology. ABE-LOS has held three meetings so far. The third meeting (ABE-LOS III) was held in Lisbon in May 2003 and was attended by 48 experts from developed and developing countries, as well as by observers from various international organizations, including the United Nations. While participation at ABE-LOS meetings has been increasing consistently, it is important to ensure that this trend continues.

99. The following issues were discussed at the ABE-LOS meetings. (1) the IOC draft criteria and guidelines for the transfer of marine technology; (2) the possible establishment of an IOC internal procedure related to the effective use of article 247 of UNCLOS on marine scientific research projects undertaken by or under the auspices of international organizations; and (3) the results of the revised IOC questionnaire on the practices of States in the field of marine scientific research and transfer of marine technology. In addition, ABE-LOS was seized with a request by the IOC-WMO-UNEP Committee for the Global Ocean Observing System (I-GOOS), a subsidiary body of the Global Ocean Observing System (GOOS) of IOC.

100. *IOC criteria and guidelines for the transfer of marine technology*. ABE-LOS III finalized the IOC criteria and guidelines for the transfer of marine technology, the development of which had begun at the first meeting, and recommended them for adoption at the twenty-second session of the IOC Assembly (24 June-3 July 2003).

101. The criteria and guidelines on the transfer of marine technology constitute the first substantive achievement of the Advisory Body. They are intended to revive Part XIV of UNCLOS on development and transfer of marine technology and to establish a tool for promoting capacity-building in the oceans and seas through international cooperation. The criteria and guidelines were deliberately drafted as non-legally binding in order to facilitate the transfer of marine technology and to encourage trust between donors/providers and recipients. Although the criteria and guidelines state that, as a general rule, the transfer of marine technology should be effected free of charge or at a reduced rate, it is also emphasized that the transfer of marine technology should be conducted on "fair and reasonable terms and conditions" for the benefit of all parties. Furthermore, the guidelines promote cooperative schemes, such as joint ventures, and partnerships between member States, relevant international organizations, NGOs and private entities. The document sets out in detail the responsibilities of IOC in establishing a clearing-house mechanism in promoting and facilitating the transfer of marine technology, particularly through research of funding sources.

102. The twenty-second session of the IOC Assembly adopted the revised IOC Criteria and Guidelines on the Transfer of Marine Technology by resolution IOC-XXII-12.[42] In its resolution, the IOC Assembly recognized that any transfer of marine technology would have to take into account the capacity of the recipient State to pay for such transfer. The Assembly decided that the Criteria and Guidelines should be disseminated among member States and other international organizations. Furthermore, it recommended the establishment of mechanisms to monitor the use of the criteria and guidelines by member States.

103. *Possible establishment of an IOC internal procedure related to the effective use of article 247 of UNCLOS on marine scientific research projects undertaken by or under the auspices of international organizations.* At the second meeting of ABE-LOS (ABE-LOS II), a working group considered the possible establishment of an IOC procedure for the effective application of article 247 of UNCLOS to marine scientific research projects undertaken by or under the auspices of international organizations. The first draft of this procedure prepared by the Chairperson of the Working Group (IOC-ABE-LOS II/8) was based on two main criteria: (1) the result should be a simple and workable procedure for all parties involved in carrying out marine scientific research projects while safeguarding the rights of coastal States; and (2) the text should be short and clear, conforming closely to UNCLOS but avoiding unnecessary repetitions of its provisions. During ABE-LOS II, numerous proposals were made to revise the document. At ABE-LOS III, the document continued to generate extensive debate, and it was recommended that the working group continue the examination of its provisions.

104. *Revised IOC questionnaire on the practices of States in the field of marine scientific research.* ABE-LOS II was informed that 37 member States had sent a reply to the revised questionnaire prepared by the IOC secretariat. In view of the limited number of replies and the imbalance in the number of questions relating to Parts XIII and XIV of UNCLOS, the group requested that the questionnaire be redrafted and resent to States. A second revised questionnaire was prepared by the IOC-ABE-LOS secretariat in consultation with its members and the Division for Ocean Affairs and the Law of the Sea and sent to member States. That questionnaire contained separate sections on marine scientific research and transfer of marine technology. In reviewing the responses, the ABE-LOS III group considered that

although only 31 member States had replied, the results[43] constituted a valuable source of information to be developed and placed at the disposal of IOC member States on the "IOC and UNCLOS" web site of IOC. The recommendation of ABE-LOS that a working group be established to analyse the replies to the questionnaire was subsequently endorsed by the IOC Assembly.

105. *ABE-LOS and I-GOOS.* ABE-LOS II was informed of a possible duplication of mandates with regard to the consideration of questions relating the legal framework applicable to operational oceanography. The issue had been raised within I-GOOS, which had established its own ad hoc group on GOOS and UNCLOS. As the competent body for giving advice to IOC bodies on the implementation of UNCLOS, ABE-LOS II agreed that pending a decision by the IOC Assembly, its competency in matters related to UNCLOS should be recognized by I-GOOS, which was then invited to make a presentation on its views about operational oceanography for advice by ABE-LOS.

106. At ABE-LOS III, the Chairperson of I-GOOS expressed her group's interest in seeking greater cooperation with ABE-LOS with regard to its main goals, which are: transferring prototypes from scientific research to operations, learning about the activities in regions where scientific research is at an advanced stage for the benefit of all member States, building capacities in all member States, and facilitating observations in the exclusive economic zone for operational forecasting. To address the latter issue, I-GOOS had commissioned a study on the scientific and technical requirements of GOOS in relation to UNCLOS.[44] The study suggested, inter alia, (a) developing, at an integrated regional or global programme level, mechanisms for obtaining consent to carry out marine scientific research in territorial waters, exclusive economic zones and continental shelves under the provisions of UNCLOS and the auspices of IOC; (b) excluding from the consent provisions the collection of data for operational marine-state forecasts (up to 10 days), within international programmes as is now done for meteorological data; and (c) under capacity-building, (i) to extend practical and material assistance provided for World Weather Watch of WMO, (ii) to involve all member States in joint projects to transfer technology and raise capacity, and (iii) to deliver emerging products to member States.

107. The Chairperson also pointed out that, since I-GOOS was seeking suggestions and support on those issues from ABE-LOS, it would recommend to the IOC Assembly at its twenty-second session that ABE-LOS provide advice on the legal framework applicable to the collection and management of oceanographic data in exclusive economic zones. I-GOOS, in turn, would offer advice to ABE-LOS on the specific technical and scientific aspects.

108. Members of the ABE-LOS group offered to provide their support if the upcoming IOC Assembly would instruct it to place the item on its agenda. It was pointed out that, in general, it would be useful to improve the exchange of information on legal aspects of marine scientific research among ABE-LOS, I-GOOS and other relevant subsidiary bodies of the IOC with a view to better understanding the issues under their respective mandates. At its twenty-second session, the IOC Assembly decided that the IOC Executive Secretary, in consultation with the Chairperson of ABE-LOS, should establish an open-ended working group of ABE-LOS to provide advice on the legal framework within the context of UNCLOS applicable to the collection of oceanographic data. That group

would work through electronic correspondence and in consultation with the I-GOOS Board with regard to the scientific and technical aspects.

## VIII. Settlement of disputes

109. States Parties are required by UNCLOS to settle their disputes concerning the interpretation or application of the Convention by peaceful means in accordance with article 2, paragraph 3, of the Charter of the United Nations. If they are unable to reach a settlement, they are obliged to resort to the compulsory dispute settlement procedures entailing binding decisions in UNCLOS, subject to the limitations and exceptions, provided for under Part XV. UNCLOS provides for four alternative procedures for the settlement of disputes: the International Tribunal for the Law of the Sea; the International Court of Justice; an arbitral tribunal constituted in accordance with annex VII to UNCLOS; or a special arbitral tribunal constituted in accordance with annex VIII. States Parties may choose one or more of the procedures by written declaration made under article 287 of UNCLOS and deposited with the Secretary-General of the United Nations.

110. During 2002, the International Tribunal for the Law of the Sea was seized of the "*Volga*" case (Russian Federation v. Australia); and the International Court of Justice of the case concerning the land and maritime boundary between Cameroon and Nigeria (Cameroon v. Nigeria). With respect to the latter, it can be noted that the Secretary-General of the United Nations has been using his good offices to ensure that the judgment is applied by Nigeria, which initially refused to do so. In addition, a special commission has been established in order to settle all political differences between the parties and pave the way for implementation of the judgment. In June 2003, the arbitral tribunal constituted for the MOX Plant case (Ireland v. United Kingdom) began to hear oral arguments but suspended the proceedings.

### A. Case before the International Tribunal for the Law of the Sea

111. "*Volga*" *case* (*Russian Federation v. Australia*). On 2 December 2002, the Russian Federation filed an application with the Tribunal under article 292 of UNCLOS against Australia for the release of the vessel *Volga* and three members of its crew. On 7 December 2002, Australia filed its response.

112. The *Volga*, a long-line fishing vessel flying the flag of the Russian Federation, was stopped, and members of its crew arrested, on 7 February 2002 by Australian military personnel beyond the limits of the exclusive economic zone of Australia for alleged illegal fishing. Consequently, Australian authorities seized the vessel, including the catch, nets and equipment. The three members of the crew were charged with criminal offences.

113. The Russian Federation contended that the bond sought by Australia imposed conditions for the release of the vessel and the three members of the crew that were neither permissible nor reasonable under article 73, paragraph 2, of UNCLOS. Australia maintained that the bond was reasonable and requested the Tribunal to reject the application made by the Russian Federation.

114. In its judgment, delivered on 23 December 2002, the Tribunal found unanimously that it had jurisdiction to entertain the Russian Federation application

and that the application regarding the allegation of non-compliance with article 73, paragraph 2, of UNCLOS, was admissible.

115. As regards the release of the vessel, the Tribunal noted that the amount of $A 1,920,000 sought by Australia, representing the full value of the vessel, fuel, lubricants and fishing equipment, was not in dispute between the parties and was reasonable in terms of article 292 of UNCLOS. However, the Tribunal observed that Australia had made the release of the vessel conditional upon the fulfilment of two conditions: that the vessel carry a vessel monitoring system; and that information concerning particulars about the owner and ultimate beneficial owners of the ship be submitted to Australian authorities. Those non-financial conditions, the Tribunal found, could not be considered as components of the bond or other financial security for the purpose of article 292 of UNCLOS. Accordingly, the Tribunal determined that the bond or other security for the vessel should be $A 1,920,000 and found that Australia was obliged to promptly release the *Volga* upon the posting of the bond or other security.[45]

## B. Case before the International Court of Justice

116. *Land and maritime boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*. On 10 October 2002, the Court rendered its judgment in the case between Cameroon and Nigeria instituted on 29 March 1994 relating to the sovereignty over the peninsula of Bakassi and the determination of the maritime boundary.

117. The Court observed that the maritime boundary between Cameroon and Nigeria had not been the subject of negotiations until relatively recently. In 1971, in the Yaoundé II Declaration, the Heads of States of the two countries had agreed upon a maritime boundary extending to a limit of three nautical miles (that is, a line running from a point 1 to a point 12). Four years later, in the Maroua Declaration the Heads of State of the two countries had agreed to further extend the line of the maritime boundary, and adopted a boundary line defined by a series of points running from a point 12 to a point designated as G.

118. On 11 June 1998, the Court rendered its judgment on the eight preliminary objections made by Nigeria and found, on the basis of article 36, paragraph 2, of the Statute, that it had jurisdiction to adjudicate upon the dispute between the parties on their land and maritime boundary and that the application, as amended, filed by Cameroon was admissible.

119. On 30 June 1999, Equatorial Guinea filed an application for permission to intervene in the case in order to protect its legal rights in the Gulf of Guinea.

120. The Court fixed the maritime boundary between the two States in two stages. First, accepting Cameroon's contention, the Court began by upholding the validity of the Declarations of Yaoundé II and Maroua. Next, in respect of the maritime boundary further out to sea (that is, beyond point G), the Court essentially endorsed the delimitation method advocated by Nigeria. The Court decided that, from point G, the boundary line between the maritime areas appertaining respectively to Cameroon and to Nigeria would follow a loxodrome having an azimuth of 270° as far as the equidistance line passing through the midpoint of the line joining West Point and East Point; the boundary would meet that equidistance line at a point X, with coordinates 8° 21' 20" longitude east and 4° 17' 00" latitude north. From point

X, the boundary between the maritime areas appertaining respectively to Cameroon and to Nigeria would follow a loxodrome having an azimuth of 187° 52' 27". Noting, however, that the line so adopted was likely to encroach on the rights of Equatorial Guinea, the Court confined itself to indicating its direction without fixing the Cameroon/Nigeria/Equatorial Guinea tripoint.[46]

## C. Case before an arbitral tribunal

121. *Mox Plant case (Ireland v. United Kingdom)*. On 25 October 2001, Ireland initiated a case pursuant to annex VII of UNCLOS. Pending the constitution of an annex VII arbitral tribunal, Ireland requested the International Tribunal for the Law of the Sea on 9 November 2001 to prescribe provisional measures. On 3 December 2001, the Tribunal prescribed a provisional measure under article 290, paragraph 5, of UNCLOS to the effect that Ireland and the United Kingdom were to cooperate and enter into consultations in order to exchange further information with regard to the possible consequences for the Irish Sea arising out of the commissioning of the mixed oxide fuel (Mox) plant at the Sellafield nuclear facility in the United Kingdom; monitor the risks or the effects of the operation of the Mox plant for the Irish Sea; and devise, as appropriate, measures to prevent pollution of the marine environment which might result from the operation of the Mox plant (see A/57/57, paras. 557-563).

122. The annex VII arbitral tribunal was constituted in February 2002 and began hearing oral arguments in the case on 10 June 2003. Those hearings were suspended on 13 June 2003 until 1 December 2003, in view of questions raised regarding the position of the parties under the law of the European Communities. The European Commission had brought to the attention of the arbitral tribunal on 5 June 2003 that it was examining the question whether to institute proceedings under article 226 of the European Community Treaty. The arbitral tribunal noted that there was a real possibility that the European Court of Justice might be seized of the question whether the provisions of UNCLOS on which Ireland relied were matters in relation to which the competence had been transferred to the European Community and, indeed, whether the exclusive jurisdiction of the European Court of Justice, with regard to Ireland and the United Kingdom as member States of the European Community, extended to the interpretation and application of UNCLOS as such and in its entirety. The tribunal noted that if that view was sustained, then its jurisdiction would be entirely precluded by virtue of article 282 of UNCLOS.

123. In view of the circumstances, the arbitral tribunal stated its willingness to consider a request from Ireland for further provisional measures. Accordingly, on 16 June 2003, Ireland filed a request for provisional measures with the arbitral tribunal. The tribunal declined to order the provisional measures specifically requested by Ireland and instead affirmed the provisional measures that had been prescribed by the International Tribunal for the Law of the Sea in 2001.[47]

# IX. Capacity-building

124. Successive General Assembly resolutions on oceans and the law of the sea, for example, resolution 57/141, have underlined the essential need for capacity-building to ensure that all States, especially developing countries, in particular least

developed countries and small island developing States, are able to both implement UNCLOS and benefit from the sustainable development of the oceans and seas, as well as to participate fully in global and regional forums and processes dealing with issues related to oceans and the law of the sea.

125. Priority areas for capacity-building for developing countries that were identified during the third meeting of the Consultative Process were ocean monitoring, marine environment protection, integrated ocean management and marine resource development (see A/57/80). In addition, many States lack adequate resources to combat IUU fishing and suppress criminal activities at sea, including the implementation of new maritime security measures in SOLAS and the IMO International Ship and Port Facility Code.

126. Capacity-building constitutes part of the activities of many intergovernmental organizations (see A/57/57, paras. 571-639). GEF, in particular through its international waters projects, continues to play a vital role in funding projects which address the degradation of coastal and marine ecosystems (see paras. 85 and 133). IMO provides technical assistance to developing States through its Integrated Technical Cooperation Programme, and also convenes regional seminars and workshops as part of its anti-piracy project (see para. 54). More recently, the IOC Assembly adopted criteria and guidelines for the transfer of marine technology which are intended to revive Part XIV of UNCLOS and establish a tool for promoting capacity-building in the oceans and seas through international cooperation (see paras. 100-101).

127. In addition to these activities, there has been an increasing trend to establish issue-specific trust funds for the purpose of providing assistance to developing States, in particular the least developed and small island developing States. For example, four trust funds were established by the General Assembly in its resolution 55/7 for the purpose respectively of assisting States: (a) in the settlement of disputes through the International Tribunal for the Law of the Sea; (b) in the preparation of submissions to the Commission in compliance with article 76 of UNCLOS; (c) in defraying the cost of participation of Commission members in the meetings of the Commission (see para. 16); and (d) in attending the meetings of the Consultative Process. More recent trust funds include the trust fund and technical cooperation project established for the Conference on Maritime Delimitation in the Caribbean (see para. 28). Finally, States parties to the Fish Stocks Agreement have decided to recommend to the General Assembly the establishment of a trust fund to assist developing States in the implementation of the Agreement (see para. 63). The establishment of trust funds is a welcome development which, of course, needs to be supported by the provision of funds.

128. Human resource development, in particular training government officials to enable them to acquire the necessary knowledge in ocean affairs and the law of the sea, is an important component of capacity-building. In this regard, attention is drawn to the Hamilton Shirley Amerasinghe Memorial Fellowship Programme and the TRAIN-SEA-COAST Programme which are part of the capacity-building activities of the Division for Ocean Affairs and the Law of the Sea.

## A. Hamilton Shirley Amerasinghe Memorial Fellowship Programme

129. Part of the capacity-building activities of the Office of Legal Affairs is the Hamilton Shirley Amerasinghe Memorial Fellowship Programme, which is administered by the Division for Ocean Affairs and the Law of the Sea. The programme, in its seventeenth year of operation, is also part of the programme of assistance in the teaching, study and wider appreciation of international law that encompasses all training and fellowship programmes in the field of international law in the United Nations system. The fellowship provides an opportunity for one or two qualified government officials, research fellows or lecturers and others who are involved in ocean law or maritime affairs or a related discipline to acquire additional knowledge of UNCLOS in order to promote its wider appreciation and application and generally to attain a better understanding of and greater specialization in the fields of study related to the law of the sea. The fellows are supervised by eminent professors in the fields of the law of the sea, ocean affairs, maritime affairs or related disciplines.[48]

130. The fellowship includes supervised research at a participating university or institution for a period of six months and a three-month internship at the Division for Ocean Affairs and the Law of the Sea. The candidates for the fellowship must hold a degree or its equivalent in law, marine science, political science, ocean management, and administration of ports or related disciplines. They must have at least five years of work-related experience. The Legal Counsel awards the fellowship annually, on the recommendations of a high-level advisory panel, which consists of eminent persons in law of the sea issues and international law.[49]

131. Thus far, 17 annual awards and five special awards have been made to fellows from developing countries. In making the selection, special consideration is given to persons who may not have the means or facilities for further studies, training or experience in their own countries. The 2001 recipients of the fellowship, Mr. Kamran Hashemi from the Islamic Republic of Iran and Mr. Boris Danailov from Bulgaria, have completed their fellow-in-residence programme at the Max Planck Institute for Comparative Public Law and International Law, Heidelberg, Germany, and at the University of Southampton Faculty of Law, United Kingdom, respectively. In 2003, owing to problems encountered in obtaining visas for the fellows to carry out their internship programme with the Division for Ocean Affairs and the Law of the Sea, it was arranged for the fellows to carry out their internship programme at the International Tribunal for the Law of the Sea and at IMO, respectively. The 2002 awards were made to Ms. Pereira from Cape Verde and Mr. Plata Gonzalez from Colombia.[50] Arrangements are under way for the placement of the fellows at one of the 15 participating universities.[51] The participating universities and institutions make a valuable contribution to the programme, since tuition and other fees for carrying out research/study by the fellows at these universities and institutions are waived.

132. In the last several years, contributions have decreased significantly, and it has become necessary to draw upon the capital in order to maintain the fellowship. The General Assembly has continually called upon Member States and interested organizations, foundations and individuals to make voluntary contributions to the fund since the annual fellowships are financed from the income derived from contributions received. In the past year, contributions were received from Monaco

and Cyprus, while the United Kingdom has, as in previous years, committed funds for the special award.

## B. The TRAIN-SEA-COAST Programme

133. The TRAIN-SEA-COAST Programme (TSC), administered by the Division for Ocean Affairs and the Law of the Sea, is a training network in the field of coastal and ocean management. The overall goal of the Programme is capacity-building at the local level and emphasis is thus placed on: (a) building up permanent national capabilities; (b) training targeted to the specific needs of countries; and (c) cost-effectiveness. The Programme is funded by UNDP/GEF and is implemented through course development units that are located in developed and developing countries, at universities or other institutes.[52]

134. *Delivery of TSC courses.* Three TRAIN-SEA-COAST standard training packages were successfully completed by TSC course development units in 2002-2003. The first training course, entitled "Protective measures for coastal areas", was delivered to 23 individuals from Argentina, Brazil, Colombia and Uruguay, by the course development unit in Uruguay, in association with the GEF office in Rio de la Plata, Uruguay from 23 to 30 June 2002. The course presented an integrated approach to the management of ecosystems in river basins, estuaries and coastal areas. It was later revised and delivered for a second time to participants from Argentina in May 2003. The second training course, entitled "Responsible fisheries in the Pacific islands: the implementation of post-UNCED international instruments", was developed within the framework of the GEF South Pacific project and was delivered in Fiji from 24 June to 5 July 2002 in association with FAO and the South Pacific Regional Environment Programme. The course introduced management advice that would support responsible fisheries and was largely based on the relevant sections of the FAO Code of Conduct for Responsible Fisheries and Technical Guidelines No. 4 on fisheries management.[53] The participants were mainly government officials from the Cook Islands, the Federated States of Micronesia, Fiji, Nauru, Palau, Papua New Guinea, Solomon Islands, Tonga, Tuvalu and Vanuatu, and representatives from the private sector (port authority) and from NGOs such as Greenpeace and the World Wide Fund for Nature (WWF). The course was delivered a second time in June 2003 to another group of government officials from the region and to three government officials from Sri Lanka. The third training course, entitled "The role of fisher-women in coastal communities", was delivered in Benin from 1 to 10 October 2002, in association with the GEF Gulf of Guinea Project and the NGO Centre for Development in Africa in the local language and then in French, to 30 participants, including individuals from the main non-governmental organizations representing associations of women along the coast of Benin. The objective of the training was to improve and cement best practices by women fishmongers but also to introduce environmentally sound new techniques for the treatment of fish. The participants were also encouraged to practice alternatives to fishing in view of the fact that, increasingly, the fishing activity does not generate enough revenue for families along the Gulf of Guinea.

135. *Outreach activities of TSC.* TSC has strengthened its cooperation with other United Nations agencies during the period under review. It sponsored, in close collaboration with the IMO GloBallast Programme, the preparation and delivery of a ballast water management training course in Brazil from 12 to 16 June 2003. The

course familiarized participants with the issues surrounding the management of ballast water including instructions on the application of ballast water and sediment management procedures and maintenance of appropriate records and logs in accordance with the IMO guidelines for the control and management of ships' ballast water to minimize the transfer of harmful aquatic organisms and pathogens. In addition, the TSC Programme and UNEP/GPA will enter into a memorandum of understanding for the development of a training course on sewage management geared towards municipalities. It is scheduled to be ready for delivery five months after the signature of the memorandum of understanding.

# X. International cooperation and coordination

## A. United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea

136. The fourth meeting of the Consultative Process met from 2 to 6 June 2003 in New York and was co-chaired by Felipe Paolillo (Uruguay) and Philip D. Burgess (Australia). The Process focused its discussions on the two areas that had been recommended by the General Assembly in resolution 57/141, namely (a) protecting vulnerable marine ecosystems and (b) safety of navigation, for example, capacity-building for the production of nautical charts. Reports were also received from FAO and UNEP respectively on IUU fishing and the protection of the marine environment from land-based activities, which were the two key topics at the first meeting of the Consultative Process. The report of the fourth meeting is set out in document A/58/95.

## B. Establishment of a new inter-agency coordination mechanism

137. The fourth meeting of the Consultative Process also considered progress by the Secretary-General in establishing an effective, transparent and regular inter-agency coordination mechanism on ocean and coastal issues within the United Nations system pursuant to General Assembly resolution 57/141. A representative of the Assistant Secretary-General for Policy Coordination and Inter-agency Affairs of the Department of Economic and Social Affairs and Secretary of the Chief Executives Board provided information on the current status of deliberations within the High-Level Committee on Programmes regarding the establishment of a new mechanism for inter-agency cooperation and coordination on oceans and the law of the sea to replace the former Subcommittee on Oceans and Coastal Areas of the Administrative Committee on Coordination. The meeting was informed that the High-Level Committee on Programmes, at the request of the Chief Executives Board, was in the process of elaborating proposals on inter-agency cooperation for the follow-up to the World Summit for Sustainable Development and that the deliberations of the High-Level Committee had been guided by the Johannesburg Plan of Implementation and by General Assembly resolution 57/141.

138. With respect to oceans and coastal areas, the High-Level Committee on Programmes has identified three core functions: (a) regular networking at the level of experts for the day-to-day coordination of ongoing operational and other activities and the management of joint projects; (b) the development of system-wide

responses to emerging issues, as identified by the relevant intergovernmental bodies and/or agencies/programmes, through arrangements tailored to the specific requirements of each issue; and (c) monitoring overall coverage and strategic coherence, which is ultimately the responsibility of the Chief Executives Board, with the support of the High-Level Committee. At the April 2003 session of the Board, the executive heads generally agreed with the overall approaches developed by the High-Level Committee.

139. During the meeting of the Consultative Process, various views were expressed on the proposed new mechanism. It was recommended that the General Assembly strongly reiterate its request to establish a mechanism taking into account part A, paragraph 49, of the report of the Consultative Process at its third meeting (see A/57/80). Further elaboration of the proposals of the High-Level Committee on Programmes is under way and its recommendations are expected to be finalized by September 2003 and submitted to the session of the Chief Executives Board later in 2003. Once the recommendations have been approved by the Chief Executives Board, they will be made available to Member States.

## C. Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection

140. The Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection (GESAMP) was established in 1969 by eight sponsoring organizations: IMO, FAO, UNESCO-IOC, WMO, WHO, IAEA, the United Nations and UNEP in order to provide authoritative, independent, interdisciplinary scientific advice to the United Nations system to facilitate the protection and sustainable use of the marine environment. GESAMP consists of 25 to 30 experts in a wide range of scientific disciplines relevant to marine environmental protection. Experts act in their individual capacity, thus ensuring the independence of GESAMP advice.

141. In 2001, the sponsoring organizations of GESAMP commissioned an independent review that strongly recommended that GESAMP be continued as an agreed source of independent scientific advice on marine environmental protection to the United Nations system, but suggested that changes be made to its organization, work methods and management.

142. Subsequent discussions among GESAMP experts, sponsoring organizations and a number of interested external parties have led to a vision for a new GESAMP that will maintain and strengthen its established credibility; strengthen engagement both with the broader scientific community and with Governments and other major user groups in order to enhance the relevance and legitimacy of GESAMP advice; and ensure professionalism in work methods, management and product delivery. The sponsoring organizations are now considering a strategic plan and a revised memorandum of understanding to establish a new GESAMP.

## D. Specific issues

### 1. Consultative Group on Flag State Implementation

143. Since the issuance of the last report (see A/58/65, para. 243), the Division for Ocean Affairs and the Law of the Sea has established the inter-agency Consultative

Group on Flag State Implementation to exchange information on research conducted and views on measures that had been already undertaken. Terms of reference for the Group were drawn up and the following entities were invited to participate: FAO, IMO, ILO, UNEP, the United Nations Conference on Trade and Development (UNCTAD) and OECD.

144. The Consultative Group, chaired by the Director of the Division for Ocean Affairs and the Law of the Sea, held its first meeting at OECD headquarters on 7 May 2003. The discussions focused on the competence between the organizations in attendance as well as the common issue of flag State implementation. The organizations agreed to exchange papers on initiatives and measures taken thus far and to be taken in the future by the end of August 2003, to be followed-up by a preliminary report to be issued by the Division for circulation to the participants, and thereafter a final report to be submitted to the Secretary-General. The Consultative Process, at its fourth meeting, proposed that the General Assembly, inter alia, invite the Secretary-General to distribute the report of the Consultative Group at the next meeting of the Consultative Process (see A/58/95, para. 24 (b)).

## 2. Global marine assessment

145. By paragraph 45 of its resolution 57/141, the General Assembly endorsed the recommendations in the Johannesburg Plan of Implementation and decided to establish by 2004 a regular process under the United Nations for the global reporting and assessment of the state of the marine environment, including socio-economic aspects, both current and foreseeable, building on existing regional assessments. It requested the Secretary-General to consult all interested parties, to prepare proposals on modalities for a regular process for the global reporting and assessment of the state of the marine environment, drawing, inter alia, upon the work of UNEP pursuant to Governing Council decision 21/13, and taking into account the recently completed review by GESAMP, and to submit those proposals to the Assembly at its fifty-eighth session for its consideration, including on the possible convening of an intergovernmental meeting.

146. The UNEP Governing Council, in its decision 22/1 on early warning, assessment and monitoring, welcomed the fact that outcomes of the consultations UNEP had organized had contributed significantly to the target set out in the Johannesburg Plan of Implementation.[54] It requested the Executive Director of UNEP to report to the Secretary-General in 2003. By the same decision, the Governing Council, inter alia, authorized the Executive Director to seek extrabudgetary resources, including through the establishment of a trust fund, to support the participation of developing countries in a regular process for reporting and assessment of the state of the marine environment.

147. At its fourth meeting, the Consultative Process proposed that the General Assembly: (a) welcome the development of a Global Marine Assessment (GMA) as an important step towards strengthening cooperation and coordination between the various organizations and specialized agencies dealing with oceans issues and as a crucial tool to improve policy-making in Governments; (b) invite the Division for Ocean Affairs and the Law of the Sea to convene an inter-agency meeting to define the participation and contribution of individual organizations, specialized agencies and relevant regional bodies, including regional seas conventions and action plans to the GMA process referred to in paragraph 45 of resolution 57/141 and paragraph

36 (b) of the Johannesburg Plan of Implementation; (c) request the Division to convene a group of experts to prepare a detailed plan for the GMA for consideration by an intergovernmental meeting, that would define, inter alia, the role of the scientific community, including GESAMP, and the possible contributions of non-governmental organizations to the GMA; and (d) invite the Secretary-General to convene an intergovernmental meeting to discuss and endorse the detailed plan for the scope, modalities and organizational structure of the GMA and to formally establish the process (see A/58/95, para. 25).

148. Pursuant to the request of the General Assembly in resolution 57/141, a report containing proposals for modalities for a regular process for the global reporting and assessment of the state of the marine environment (A/58/__) has been prepared by the Secretary-General on the basis of contributions received from (a) United Nations departments, regional commissions and programmes (including UNEP), specialized agencies, IAEA and the International Hydrographic Bureau, and also from GESAMP; (b) Convention secretariats; (c) global intergovernmental and regional organizations; (d) regional fisheries organizations and (e) non-governmental organizations. The report also contains the recommendations of the Division for Ocean Affairs and the Law of the Sea relating to future steps with regard to the GMA. The Division has convened the inter-agency meeting referred to in paragraph 146, from 8 to 9 September at IOC headquarters, to discuss the report on modalities and the possible contribution of individual organizations, specialized agencies and relevant regional bodies, including regional seas conventions and action plans, to the GMA process.

## XI. Conclusions

149. Since the last report of the Secretary-General on oceans and the law of the sea, the international community has continued to focus its attention on issues relating to navigation, the conservation and management of living marine resources and marine and coastal biodiversity, the protection of the marine environment and international coordination and cooperation.

150. In the area of navigation, some of the issues dominating the discussions were: the accelerated phase-out of single-hull oil tankers, the transport of dangerous goods by sea, coastal States' jurisdiction, capacity-building for the production of nautical charts, flag State implementation and enforcement, ports of refuge, the provision of a place of safety for persons rescued at sea, and the freedom of movement of seafarers balanced against security concerns. Simultaneously, the potential use of ships for illicit purposes, especially for terrorist acts, and the high number of incidents of piracy and armed robbery remained at the forefront of discussions on maritime security.

151. Two matters of grave concern for the sustainable development of oceans and seas remain the overexploitation of marine living resources, together with the increasing degradation of the marine environment from pollution from land-based and other activities, with significant implications for food security, the marine ecosystem, human health and poverty alleviation. In the past several months, it has become apparent that there is an urgent need to improve global governance of the world's living marine resources, and to identify ways and means to ensure their sustainable development. The OECD round table on sustainable development of

global fisheries concluded that the lack of political will in implementing international instruments remains the main impediment in the fight against IUU fishing.

152. Marine biodiversity is under pressure from a variety of human activities. States should take urgent action to ensure the effective conservation and sustainable use of marine and coastal biodiversity, while relevant international organizations should cooperate and coordinate their activities to ensure integrated approaches to the conservation and management of biodiversity in areas beyond national jurisdiction in accordance with UNCLOS.

153. As regards vessel-source pollution, measures proposed in response to the *Prestige* incident dominated the IMO agenda during the reporting period and underlined the important role of that organization in establishing international rules and standards for the prevention, reduction and control of pollution of the marine environment from vessels, and providing a forum for the consideration of new measures, such as the designation of a large area off the coasts of several Western European countries as a particularly sensitive sea area.

154. It is essential to ensure that all States, especially developing countries, in particular least developed countries and small island developing States, are able to implement UNCLOS and to benefit from the sustainable development of the oceans and seas. The capacity-building activities of intergovernmental organizations play an important role in that regard and should be supported, including through trust funds such as the proposed Assistance Fund under part VII of the Fish Stocks Agreement. States are also encouraged to actively participate in and make use of the capacity-building programmes of the Division for Ocean Affairs and the Law of the Sea, including through increased contributions to the Hamilton Shirley Amerasinghe Memorial Fellowship Programme fund and support of the TRAIN-SEA-COAST course development units.

155. International coordination and cooperation remains a critical prerequisite for effective governance of the world's oceans and seas. The international community has therefore focused attention on the availability of mechanisms to facilitate such coordination and cooperation, in particular on the establishment of the inter-agency coordination mechanism on oceans and coastal issues called for in General Assembly resolution 57/141. Of particular significance is the proposed establishment of a regular process under the United Nations for the global reporting and assessment of the state of the marine environment, which will require enhanced cooperation and coordination among all relevant organizations and agencies and which will provide a sound scientific basis for decision-making on ocean-related issues by States and regional organizations. The reorganization of GESAMP as the inter-agency mechanism for the provision of scientific advice on the protection of the marine environment could result in its playing a major role in the GMA. Finally, the value of task-specific and time-bound mechanisms is exemplified by the Consultative Group on Flag State Implementation.

156. Cognizant of the role that the annual report on oceans and the law of the sea can play in facilitating international coordination and cooperation, while taking into account the expanding number of issues that need to be reported on within current page constraints, the Secretary-General would like to propose the submission of two separate reports to the General Assembly. The first would be prepared in time for the Consultative Process and would report on the areas of focus recommended by

the General Assembly, and on international coordination and cooperation. The second report would be prepared in time for consideration by the General Assembly of the agenda item "oceans and the law of the sea" and would provide the traditional comprehensive overview of developments in ocean affairs and the law of the sea.

*Notes*

[1] For the report of the thirteenth Meeting of States Parties, see document SPLOS/103.

[2] For further details, see statement of the Chairman on the progress of work in the Commission (CLCS/36, paras. 8-10, and 15-20).

[3] For a further discussion of training issues in the Commission, see ibid., paras. 13 and 24-25.

[4] For the account of the examination of the Russian submission and a summary of the Commission's recommendation, see A/57/57/Add.1, paras. 27-56.

[5] See also SPLOS/103, para. 92.

[6] A description of the deposit by the Republic of Seychelles will appear in Law of the Sea Information Circular No. 18.

[7] All available texts of national legislation and of treaties on the delimitation of maritime boundaries are regularly published in the Law of the Sea Bulletin and posted on the web site of the Division for Ocean Affairs and the Law of the Sea at www.un.org/Depts/los.

[8] MEPC 49/16/1.

[9] For the text of the Revised Convention see the web site of the International Labour Organization at www.ilo.org.

[10] See report of NAV 49 in document NAV 49/19.

[11] See web site of the International Chamber of Shipping at www.marisec.org.

[12] The Group has recommended that the scheme not seek to duplicate the existing mandatory audit requirements in the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, and cover only those aspects that are not currently covered by those audits.

[13] See the report of the Working Group in document MSC 77/WP.14.

[14] See report of the Subcommittee on Flag State Implementation at its eleventh session in document FSI 11/23, and the report of MSC 77 in document MSC 77/26, paras. 7.5 and 7.6.

[15] For the text of the draft amendments see report of MSC 77 in document MSC 77/26/Add.1, annexes 12 and 13, and for a draft outline of the proposed guidelines see document MSC 77/10/8.

[16] See the report of the fourth meeting of the Consultative Process (A/58/95), paras. 50 and 132 (i), and the report of the thirteenth Meeting of States Parties, SPLOS/103, para. 18.

[17] For the report of the Legal Committee at its eighty-sixth session, see document LEG 86/15.

[18] See the statement by the Chairman of the Proliferation Security Initiative at their meeting in Brisbane, Australia, on the web site of the Nautilus Institute for Security and Sustainable Development at www.nautilus.org.

[19] "Piracy soars as violence against seafarers intensifies", Press release dated 24 July 2003, on the web site of the International Chamber of Commerce Commercial Crime Services at www.iccwbo.org/index_ccs.asp.

[20] See report of MSC 77 in document MSC 77/26, section 19.

[21] *The New York Times* Editorial/Letters, "Oceans in Peril", 27 May 2003.

[22] Ibid., "Commercial Fleets Reduced Big Fish by 90%, Study Says", 15 May 2003. See also *Nature*, vol. 423, 15 May 2003.

[23] Report of the Ad Hoc Technical Expert Group on Marine and Coastal Protected Areas established under the Convention on Biological Diversity in document UNEP/CBD/SBSTTA/8/9/Add.1.

[24] See the report of SBSTTA in document UNEP/CBD/COP/7/3.

[25] See the recommendations of the Open-ended Inter-Sessional Meeting on the Multi-Year Programme of Work of the Conference of the Parties up to 2010 in document UNEP/CBD/COP/7/5.

[26] UNEP/CBD/SBSTTA/8/9/Add.2.

[27] UNEP/CBD/SBSTTA/8/9/INF/3/Rev.1. See also A/58/65, para. 147.

[28] See K. M. Gjerde (2003), Toward a Strategy for High Seas Marine Protected Areas, Proceedings of the IUCN, WCPA and WWF Experts Workshop on High Seas Marine Protected Areas, 15-17 January 2003, Malaga, Spain. IUCN, Gland, Switzerland.

[29] See the Montreal Declaration on the Protection of the Marine Environment from Land-based Activities in document UNEP/GPA/IGR.1/9.

[30] See A/58/95.

[31] UNEP/GC.22/2/Add.2.

[32] UNEP/GC.22/INF/4.

[33] See *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 25* (A/58/25), annex, decision 22/2, part II.

[34] The handbook is available on the Clearing-house Mechanism web site in the six official languages of the United Nations. See www.gpa.unep.org/documents/npa-docs.htm.

[35] See draft report of MEPC 49 in document MEPC 49/WP.7 and addenda.

[36] MEPC 49/16/5.

[37] MEPC 49/13/3.

[38] Proposal submitted by Australia and Papua New Guinea to MEPC 49 (see MEPC 49/8).

[39] Proposal submitted by Belgium, France, Ireland, Portugal, Spain and the United Kingdom to MEPC 49 (see MEPC 49/8/1).

[40] For the text of the Protocol, see LEG/CONF.14/20. For the text of the Final Act, which includes three resolutions adopted by the Conference, see LEG/CONF.14/22.

[41] For more information, see A/56/58, paras. 477-485.

[42] See document IOC-XX/2, Annex 12, Rev.

[43] See IOC/ABE-LOS III/9.

[44] IOC-WMO-UNEP/I-GOOS-VI/10.

[45] For the text of the judgment, see the web site of the Tribunal at www.itlos.org. The official publication of cases has not yet been issued by the Tribunal.

[46] See *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 4* (A/57/4) and the web site of the International Court of Justice at www.icj-cij.org. The official publication of cases has not yet been issued by the Court.

[47] See Order No. 3 on the web site of the International Bureau of the Permanent Court of Arbitration, which is serving as registry for the case, at www.pca-cpa.org.

[48] Further information on the fellowship programme can be obtained from the web site of the Division for Ocean Affairs and the Law of the Sea at www.un.org/Depts/los.

[49] For a list of members of the high-level advisory panel for 2002, see press release SEA/1766.

[50] For details of the 2002 award, see press release SEA/1766.

[51] For the list of participating universities and countries whose individuals have benefited from the programme, see press release SEA/1766.

[52] The CDUs are as follows: TSC/Benguela Current (South Africa), TSC/Black Sea (Turkey), TSC/Brazil, TSC/Germany, TSC/Gulf of Guinea (Benin), TSC/Philippines; TSC/Red Sea; TSC/Rio de la Plata (Uruguay) and TSC/South Pacific (Fiji).

[53] See *FAO Technical Guidelines for Responsible Fisheries, No. 4: Fisheries Management* (Food and Agriculture Organization of the United Nations, 1997).

[54] Reference is made, inter alia, to the Reykjavik meeting (12-14 September 2001), the Bremen technical workshop (18-20 March 2002) and the UNEP/World Conservation Monitoring Center Survey on Global and Regional Marine Environmental Assessments and Related Scientific Studies. See *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 25* (A/58/25), annex, decision 22/1.